United Nations S/2011/345

Security Council

Distr.: General
7 June 2011

Original: English

Letter dated 6 June 2011 from the Chair of the Security Council Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo addressed to the President of the Security Council

On behalf of the Security Council Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo, and in accordance with paragraph 5 of Security Council resolution 1952 (2010), I have the honour to submit herewith the interim report of the Group of Experts on the Democratic Republic of the Congo.

In this connection, I would appreciate it if the present letter, together with its enclosure, were brought to the attention of the members of the Council and issued as a document of the Council.

(*Signed*) Maria Luiza Ribeiro **Viotti**
Chair

11-33763 (E) 080611

Please recycle

Enclosure

Letter dated 12 May 2011 from the Group of Experts on the Democratic Republic of the Congo addressed to the Chair of the Security Council Committee established pursuant to resolution 1533 (2004)

The members of the Group of Experts on the Democratic Republic of the Congo have the honour to transmit the interim report of the Group, prepared in pursuance of paragraph 5 of Security Council resolution 1952 (2010).

(*Signed*) Fred **Robarts**

(*Signed*) Nelson **Alusala**

(*Signed*) Ruben de **Koning**

(*Signed*) Steven **Hege**

(*Signed*) Marie **Plamadiala**

(*Signed*) Steven **Spittaels**

I. Introduction

A. Mandate

1. The Group of Experts on the Democratic Republic of the Congo was originally established pursuant to Security Council resolution 1533 (2004) and has been extended by subsequent resolutions, most recently resolution 1952 (2010) of 29 November 2010. Its role is to gather and analyse all relevant information on flows of arms and related materiel, and networks operating in violation of the arms embargo concerning the Democratic Republic of the Congo.[1] The Group reports to the Security Council, through the Security Council Committee established pursuant to resolution 1533 (2004), and makes recommendations on the implementation of measures to enforce the arms embargo.

2. On the basis of its research, the Group of Experts is mandated to identify individuals and entities found to have violated the provisions of the embargo, and those found to have supported them in such activities, and to recommend them for possible future measures by the Security Council, notably designation for targeted sanctions (travel ban and assets freeze). The current list of individuals and entities designated for targeted sanctions is provided in annex II; updated information on some of those on the list is provided in paragraph 96 and annex V. Referring to resolutions 1807 (2008) and 1857 (2008), potential targets for sanctions include:

- Individuals or entities acting in violation of the arms embargo by supplying, selling or transferring arms or related materiel, military or financial advice, training or assistance to (non-governmental) armed groups operating in the Democratic Republic of the Congo.
- Political and military leaders of foreign armed groups operating in the Democratic Republic of the Congo who impede the disarmament and voluntary repatriation or resettlement of combatants belonging to those groups.
- Political and military leaders of Congolese militias receiving support from outside the Democratic Republic of the Congo who impede the participation of their combatants in disarmament, demobilization and reintegration processes.
- Political and military leaders operating in the Democratic Republic of the Congo and recruiting or using children in armed conflicts in violation of applicable international law.
- Individuals operating in the Democratic Republic of the Congo and committing serious violations of international law involving the targeting of children or women in situations of armed conflict, including killing and maiming, sexual violence, abduction and forced displacement.

[1] By Security Council resolution 1807 (2008) all States are required to prevent the direct or indirect supply, sale or transfer, from their territories or by their nationals, or using their flag vessels or aircraft, of arms and any related materiel, and the provision of any assistance, advice or training related to military activities, including financing and financial assistance, to all non-governmental entities and individuals operating in the territory of the Democratic Republic of the Congo. (Transfers to the Government of the Democratic Republic of the Congo should be notified to the Committee established pursuant to resolution 1533 (2004) in accordance with paragraph 5 of resolution 1807 (2008).)

- Individuals obstructing access to or distribution of humanitarian assistance in the eastern part of the Democratic Republic of the Congo.
- Individuals or entities supporting illegal armed groups in the eastern part of the Democratic Republic of the Congo through illicit trade in natural resources.

3. By paragraph 5 of resolution 1952 (2010), the Security Council requested the Secretary-General to extend the mandate of the Group of Experts on the Democratic Republic of the Congo until 30 November 2011, with the addition of a sixth expert on natural resources issues. The Council requested the Group to focus its activities in areas affected by the presence of illegal armed groups, including North and South Kivu and Orientale Province, as well as on regional and international networks providing support to illegal armed groups, criminal networks and perpetrators of serious violations of international humanitarian law and human rights abuses, including those within the national armed forces, operating in the eastern part of the Democratic Republic of the Congo.

4. The previous Group of Experts recommended a set of due diligence guidelines for importers, processing industries and consumers of Congolese mineral products (S/2010/596, sect. IX). The guidelines are attached as annex I, and may be considered as a series of measures by which to mitigate the risk of providing direct or indirect support to armed groups in the eastern Democratic Republic of the Congo, and hence the attendant risks of reputational damage and possible targeted sanctions.[2]

5. In resolution 1952 (2010), the Security Council called upon States to take appropriate steps to raise awareness of the due diligence guidelines and to urge importers, processing industries and consumers of Congolese mineral products to exercise due diligence by applying the guidelines. It also requested the Group to evaluate the implementation of the guidelines and to continue collaboration with relevant forums. The Group wishes to draw attention to paragraph 9 of resolution 1952 (2010), in which it is stated that:

> The Committee, in determining whether to designate an individual or entity supporting the illegal armed groups in the eastern part of the Democratic Republic of the Congo through illicit trade of natural resources ... should consider, among other things, whether the individual or entity has exercised due diligence consistent with the steps set out in paragraph 8 [of the resolution].

6. The purpose of this interim report is to signal the direction of the Group's research, without compromising ongoing enquiries. The Group intends to present its final report to the Security Council, through the Committee, by 17 October 2011.

B. Methodology

7. By a letter dated 17 February 2011 (S/2011/77), the Secretary-General informed the Security Council that he had appointed to the Group of Experts, Mr. Nelson Alusala of Kenya (arms), Mr. Ruben de Koning of the Netherlands (natural resources), Mr. Steven Hege of the United States of America (armed groups), Ms. Marie

[2] See annex I for an explanation of the recommended five-step due diligence process.

Plamadiala of the Republic of Moldova (Customs and logistics) and Mr. Fred Robarts of the United Kingdom of Great Britain and Northern Ireland (regional issues and Coordinator). Following consultations in New York and Europe in March 2011, the Group began work in the Democratic Republic of the Congo on 18 March 2011. By a letter dated 1 April 2011 (S/2011/219), the Secretary-General appointed the sixth member of the Group, Mr. Steven Spittaels of Belgium (finance).

8. Two consultants are assisting the Group: General (retired) Jean-Michel Destribats of France (arms stockpile security) and Mr. Gregory Mthembu-Salter of the United Kingdom (due diligence implementation). The Group is further assisted in its mandate by Stéphane Auvray, Political Affairs Officer in the Department of Political Affairs of the United Nations Secretariat.

9. The Group is collecting and analysing relevant data from all available sources to identify important trends and developments and has already since late March 2011 conducted field missions in 13 of the 15 territories of North and South Kivu, as well as Ituri and Haut Uélé in Orientale Province. On the basis of this first assessment phase, the Group intends to undertake further research in order to develop detailed, illustrative, evidence-based case studies for presentation in the final report. To augment its information-gathering, and on a trial basis, the Group hereby announces a public e-mail address for confidential sharing of information relevant to the Group's mandate: goedrc@un.org.

10. The Group is committed to ensuring the accuracy of its assertions, and to adhering to the evidentiary standards recommended by the Informal Working Group of the Security Council on General Issues of Sanctions in its report of 2006 (S/2006/997) by relying on verified, authentic documents and, wherever possible, first-hand, on-site observations by the experts themselves, including photographs. When this is not possible, the Group corroborates information using at least three sources assessed by the Group to be independent of one another, credible and reliable, placing a higher value on statements by principal actors and first-hand witnesses to events. While the Group wishes to be as transparent as possible, in situations where identifying sources would expose them or others to unacceptable safety risks, the Group will withhold identifying information and place the relevant evidence in United Nations archives, along with other relevant documents.

11. The Group is equally committed to impartiality and fairness, and will endeavour to make available to relevant parties, if appropriate and possible, any information about actions for which those parties may be cited, for their review, comment and response within a specified deadline. To further uphold the right of reply and in the interest of accuracy, the Group is ready to annex to its reports brief rebuttals, with a summary and assessment of their credibility, and to make any appropriate amendments regarding assertions already published in earlier reports. Some examples can be found in paragraphs 98 to 108 below.

C. Cooperation with States and organizations

12. The Group has met officials of the Government of the Democratic Republic of the Congo including the Vice Prime Minister and Minister of the Interior, presidential security advisers, the President's Special Envoy and the Permanent Representative of the Democratic Republic of the Congo to the United Nations, as well as numerous provincial and local authorities in North Kivu, South Kivu and

Orientale Province. The Group has also met representatives of Belgium, Brazil, Burundi, China, France, Germany, Kenya, Rwanda, South Africa, Uganda, the United Kingdom of Great Britain and Northern Ireland, the United Republic of Tanzania and the United States of America. The Group is also in close contact with the International Criminal Police Organization (INTERPOL), the United Nations Office on Drugs and Crime and the International Conference on the Great Lakes Region. In addition, the Group has exchanged information with the members of the Groups of Experts on Côte d'Ivoire, the Libyan Arab Jamahiriya, Somalia and the Sudan.

13. The Group encourages Member States to provide information on regional and international networks with potential links to armed groups in the Democratic Republic of the Congo, and is grateful to all States that have responded to the Group's requests for information. In the past year, just one Member State — Australia — has volunteered information to the Group that was relevant to its mandate and not prompted by the Group's enquiries. The Group takes this opportunity to express its appreciation to the Australian authorities, and hopes other States will do the same, with the Committee's encouragement.

14. Pursuant to paragraphs 13 and 17 of resolution 1952 (2010), the Group gratefully acknowledges the much-enhanced information-sharing and logistical and administrative support that it is receiving from the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO).

D. Political and security context

Regional developments

15. A referendum was held in southern Sudan in January 2011, in which a majority voted for independence, which should become effective on 9 July 2011. As fledgling institutions prepared for government, rival armed groups continued to clash in the Abyei region.

16. In February, President Yoweri Museveni was declared the winner of national elections in Uganda, but subsequent "walk-to-work" protests over high prices have led to arrests of opposition leaders and police violence.

17. A summit of the Economic Community of the Great Lakes Countries (*Communauté économique des pays des Grands Lacs*, CEPGL) in Kigali concluded on 21 January 2011 that an alliance between armed groups operating in Rutshuru, with the alleged support of Rwandan dissidents Lieutenant General Faustin Kayumba Nyamwasa and Colonel Patrick Karegeya, had the potential to destabilize the whole region (see para. 36).

18. Politically motivated killings and disappearances continued to be reported in Burundi (see para. 40).

Events in the Democratic Republic of the Congo

19. On 5 January 2010, the National Assembly and Senate adopted eight amendments to the Constitution of the Democratic Republic of the Congo, using procedures intended for emergencies. Among other measures increasing the power of the President, the electoral system was changed to eliminate the possibility of a

second round for the presidential elections, a move likely to favour the incumbent to the extent that the opposition vote is split.

20. The new Independent National Election Commission was inaugurated at the Supreme Court on 26 February 2011. The President of the Commission is Pastor Daniel Ngoy Mulunda (see S/2010/596, box 1). As voter registration proceeded across the country, the date of presidential and national legislative elections was set for 28 November 2011.

21. In Stuttgart, Germany, the trial of top leaders of the Forces démocratique pour la libération du Rwanda (FDLR), Ignace Murwanashyaka and Straton Musoni (the former designated for targeted sanctions since the inception of the sanctions list on 1 November 2005[3] and the latter on 29 March 2007;[4] see annex II) began on 4 May 2011, as the FDLR leaders in the Democratic Republic of the Congo gave mixed signals about their long-term intentions (see paras. 32-37 below).

22. Aside from FDLR, other foreign armed groups, namely the Lord's Resistance Army, the Allied Democratic Forces and the Forces nationales de libération, remained active in Orientale, North Kivu and South Kivu respectively, resisting continued military operations against them by the armed forces of the Democratic Republic of the Congo (Forces armées de la République démocratique du Congo, FARDC) (see paras. 28-31 and 39-40). Congolese armed groups also remained active, as efforts to integrate some of them into the armed forces drew mixed results (see paras. 41-59).

23. This report is issued in the context of debates regarding the extension of the mandate of MONUSCO — which expires on 30 June 2011, pursuant to resolution 1925 (2010) — with reference to agreed benchmarks established through a series of joint security assessments.

24. Two armed attacks on high-profile targets provoked speculation about their possible backers and intent: in Katanga, a raid on Lubumbashi airport on 4 February 2011; and, in Kinshasa, simultaneous attacks on the President's official residence and Camp Kokolo, an important military logistics base, on 27 February 2011. Diplomatic relations with the Republic of the Congo were strained as the Republic of the Congo refused subsequent extradition requests from the authorities of the Democratic Republic of the Congo, who were concerned that the assailants could have received support from dissident General Faustin Munene as well as other individuals in Brazzaville (see paras. 46-47).

25. On 3 May 2011, Angolan forces entered the territory of the Democratic Republic of the Congo during a military operation against the Front for the Liberation of the Enclave of Cabinda (*Frente para a Libertação do Enclave de Cabinda*, FLEC), an Angolan rebel group.

Minerals from the Democratic Republic of the Congo

26. On 10 March 2011 the Government of the Democratic Republic of the Congo lifted its suspension of all artisanal mining activity in North Kivu, South Kivu and

[3] Press release of 1 November 2005; available from www.un.org/News/Press/docs/2005/sc8546.doc.htm.

[4] Press release of 29 March 2007; available from www.un.org/News/Press/docs/2007/sc8987.doc.htm.

Maniema, which had been in place since 11 September 2010 (see paras. 67-68). Shortly afterwards, the primary remaining international buyer of tin concentrate from the Democratic Republic of the Congo and Rwanda, the Malaysia Smelting Corporation, communicated to its suppliers in both countries that, from 1 April 2011, they must comply with the tagging system of the ITRI[5] Tin Supply Chain Initiative (see para. 80).

27. On 1 April 2011, section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act came into effect in the United States. This Act was signed into law on 21 July 2010, and includes provisions requiring companies publicly traded in the United States and purchasing gold, tin, tantalum and tungsten from the Democratic Republic of the Congo or its neighbours to submit an annual report outlining the due diligence measures they are taking with regard to whether those minerals are from conflict areas and, if so, whether they could have directly or indirectly financed or benefited armed groups.[6] Since its development in 2010, this United States legislation has proved an important catalyst for traceability and certification initiatives and due diligence implementation in the minerals sector regionally and internationally.

II. Foreign armed groups

A. Allied Democratic Forces

28. The Allied Democratic Forces (ADF) is a Ugandan-led Islamist rebel group based in the Rwenzori Mountains of North Kivu (see S/2010/596, sect. IV.C). The Uganda People's Defence Forces (UPDF) continue to advise the FARDC in ongoing operations against ADF. "Operation Rwenzori" was launched against ADF in June 2010 and has continued under the name "Operation Safisha Rwenzori". While ADF had been surprised by the initial phases of these operations, they have since adopted a proactive defence strategy conducting numerous ambushes on FARDC positions as well as periodically regaining control over previous strongholds. According to United Nations sources and ex-combatants, since a number of Congolese combatants deserted the group during 2010, ADF have sought to recruit more Ugandan citizens. According to MONUSCO and FARDC sources, the structure of ADF has remained intact, as described in annex 10 to the Group's final report of 2010 (S/2010/596). According to the demobilization, disarmament, repatriation, reintegration and resettlement section of MONUSCO, only 11 Ugandan ADF elements were repatriated during 2010.

29. Jamil Mukulu remains the leader of ADF (S/2010/596, para. 109). On 13 February 2011, the Ugandan authorities issued a Red Notice through INTERPOL for Mukulu's arrest and extradition on charges of terrorism (annex III). The Group will continue to monitor Mukulu's whereabouts in cooperation with immigration officials of the Democratic Republic of the Congo, Uganda and other States. In its final report, the Group intends to document the taxation by ADF of natural resources such as gold and timber and foreign financing through money transfers (S/2010/596, para. 112). Finally, the Group will also investigate indications of recruitment in third countries

[5] The International Tin Research Institute, a tin industry membership organization; see www.itri.co.uk.

[6] See www.sec.gov/spotlight/dodd-frank.shtml; see also paras. 83 and 84 below.

and alleged links between ADF and Al-Shabaab rebels in Somalia, and would welcome any relevant evidence from Uganda or other States.

B. Lord's Resistance Army

30. Another Ugandan-led rebel group, the Lord's Resistance Army (LRA), is currently operating in the Bas Uélé and Haut Uélé districts of Orientale Province. The Group has received re, orts that the long-time leader of LRA, Joseph Kony, may have crossed back into the Democratic Republic of the Congo from the Central African Republic and may be just south of the border, in northern Bas Uélé district. While UPDF continues to conduct operations against LRA, its relations with FARDC have deteriorated since late 2010, and UPDF has progressively scaled down its presence in the Democratic Republic of the Congo. Meanwhile, FARDC has sent reinforcements to Bas Uélé, deploying there a light infantry battalion newly trained by the United States. Nevertheless, LRA has mounted increasingly brazen attacks by larger groups of fighters against FARDC outposts with the aim of seizing weapons and ammunition. There were at least eight attacks on FARDC targets between January and mid-April 2011, three of them in the month of March alone.

31. The Group has not received any indications that LRA is involved in illegal exploitation of natural resources or receives foreign financing. It continues to be self-sustaining, obtaining rations, medicine and military equipment through systematic pillage attacks. As a result of this assessment, the Group has informally sought guidance from members of the Committee regarding potential avenues of investigation relevant to its mandate. The Group requests that States with relevant information, including the United States, Uganda and the Democratic Republic of the Congo, should make this available to the Group.

C. Forces démocratiques pour la libération du Rwanda

32. The Forces démocratiques pour la libération du Rwanda (FDLR) remain militarily the strongest armed group in the Democratic Republic of the Congo.[7] Early in January 2011, joint operations of FARDC and MONUSCO were launched against FDLR in the vicinity of the latter's headquarters in Kimua, North Kivu. Otherwise, operations against the armed group have slowed down, allowing its cadres to train mid-level commanders and new recruits in Walikale territory, North Kivu. An FDLR company attacked the FARDC Luberizi training centre in January 2011, capturing six heavy machine guns and eight grenade launchers. According to ex-combatants, FDLR have sought to reinforce their presence in Rutshuru territory, and there are indications that their strongest battalion, under the command of "Lieutenant Colonel" Evariste "Sadiki" Kanzeguhera (see S/2010/596, paras. 39-40) may be redeployed there soon. The Group will closely monitor and document any cross-border trade in natural resources or logistical support that might be linked to the presence of FDLR in border areas.

33. FDLR have continued to seek alliances with Congolese armed groups to bolster their influence and provide a buffer against FARDC (S/2010/596, paras. 39-40).

[7] Throughout this report, the term "armed group" denotes non-State armed groups, as distinct from the national security forces.

The potential integration or demobilization of such armed groups threatens this strategy. On multiple occasions in recent months, FDLR have attacked former allies, including Mai Mai Akilo and Mai Mai Sheka (see S/2010/596, sect. III.A), apparently in order to retrieve weapons they provided to those groups or to undermine negotiations with FARDC.

34. The MONUSCO demobilization, disarmament, repatriation, reintegration and resettlement section has had marked success in facilitating the desertion and repatriation of FDLR officers in recent months, including high-ranking staff. "Lieutenant Colonel" Abraham Bisengimana, alias "Mutima", a G-5 (planning) officer in charge of public relations and ideological education, was repatriated to Rwanda in February 2011.[8] The desertion of FDLR North and South Kivu liaison officers in October and December 2010 has disrupted recruitment, procurement of logistical support, and regional trade. The Group will continue to monitor whether such systems are reactivated.

35. According to ex-combatants interviewed by the Group, direct international support to FDLR through diaspora members has dramatically decreased since the arrests by the German authorities of former FDLR President Ignace Murwanashyaka and former Vice-President Straton Musoni in November 2009, together with the arrest of the FDLR executive secretary, Callixte Mbarushimana, by French authorities in October 2010. However, the Group will continue to investigate FDLR regional support networks (see S/2010/596, para. 77). The Group will also seek to analyse the relative importance of the various economic activities of FDLR, including the involvement in local commerce and the trade in natural resources, including minerals, timber, charcoal and cannabis production.

36. The Group would like to clarify that, contrary to reports in the Rwandan press, the Group's final report in November 2010 did not document any substantial links with, or material support to, FDLR by the Rwandan dissidents Colonel Patrick Karegeya and Lieutenant General Faustin Kayumba Nyamwasa, aside from a potential emissary who may have visited armed groups in the eastern Democratic Republic of the Congo in February 2010 (S/2010/596, para. 166). However, on 21 January 2011, the Ministers of Defence of Burundi, Rwanda and the Democratic Republic of the Congo, meeting in Kigali within the framework of CEPGL, concluded that both Karegeya and Kayumba were recruiting for an armed rebellion in the eastern Democratic Republic of the Congo. In view of the direct relevance to its mandate, the Group would welcome any evidence from these or other States in connection with these allegations.

37. Finally, according to government officials of the Democratic Republic of the Congo and FARDC officers, FDLR have recently sought to negotiate a ceasefire in exchange for disarmament and relocation, possibly to Maniema Province. To date, the Group has not received confirmation that such an agreement has been reached, even in principle.

[8] Although Bisengimana is allegedly responsible for mass violations of human rights in the eastern Democratic Republic of the Congo, dating back to his time as a battalion commander in South Kivu, United Nations sources have informed the Group that he may soon be integrated into the Rwandan Police Force.

D. Rally for Unity and Democracy

38. The Rally for Unity and Democracy (RUD-Urunana; see S/2010/596, paras. 97-102), an FDLR splinter group, continues to operate in the Southern Lubero and Northern Rutshuru territories of North Kivu, under the command of "General" Musare. However, RUD has been considerably weakened by the desertion of its deputy commander, "Colonel" Wenceslas "Kit" Nizeyimana in January 2011, together with five officers, including the RUD military intelligence chief, and over 50 troops. Nizeyimana eventually surrendered and was repatriated to Rwanda by the MONUSCO demobilization, disarmament, repatriation, reintegration and resettlement section in April 2011. According to ex-combatants, RUD remains divided between Musare's principal group and splinter groups led by "Colonel" Gaheza and "Colonel" Moses.

E. Forces nationales de libération

39. As documented by the Group during its 2010 mandate, the Burundian rebels of the Forces nationales de libération (FNL) have continued operating in South Kivu since the flight of their President Agathon Rwasa from Burundi to the Democratic Republic of the Congo in July 2010. The resurgent rebellion continues to be commanded by Antoine "Shuti" Baranyanka (see S/2010/596, para. 115). In December 2010 and January 2011, joint operations in the Rukoko forest, an area along the Ruzizi River which divides the Democratic Republic of the Congo from Burundi, dispersed FNL farther south. According to some ex-combatants and local officials of the Democratic Republic of the Congo, FNL have withdrawn from their original alliance with FDLR, sending some of their combatants back to Burundi, and have sought to consolidate a partnership with Mai Mai Yakutumba in the territory of Fizi, South Kivu. The Group will continue to monitor the economic activities of these groups, including their involvement in the mineral and timber trades as sources of financing.

40. Despite repeated attempts by MONUSCO to reach an agreement regarding the demobilization and repatriation of Burundian combatants in South Kivu, the Burundian authorities have yet to agree on modalities. As a consequence, MONUSCO demobilization, disarmament, repatriation, reintegration and resettlement cannot support those FNL combatants who surrender. The Group remains concerned that targeted assassinations of FNL cadres in Burundi may lead to increasing numbers of new recruits seeking refuge across the border into South Kivu.

III. Congolese armed groups

41. The Group will continue to investigate the financing of Congolese armed groups through external support and involvement in the trade of natural resources. The Group intends to focus its efforts on principal Kivu-based armed groups such as Mai Mai Yakutumba, Mai Mai Sheka, PARECO (Coalition des patriotes résistants congolais) LaFontaine, the Alliance des patriotes pour un Congo libre et souverain (APCLS) and the Front populaire pour la libération du Congo, which have all resisted limited overtures by the military hierarchy to integrate their units into

FARDC (see paras. 48-59 below). The Group will continue to examine potential support to or manipulation of armed groups by local, provincial and national politicians in the lead-up to the national elections scheduled for November 2011.

A. Forces patriotiques pour la libération du Congo

42. As stated in its final report of 2010 (S/2010/596, para. 60), the Group considers the Forces patriotiques pour la libération du Congo (FPLC) to be more significant symbolically than it is operationally. FPLC cadres are active in regrouping political and military actors disgruntled with the direction of the peace agreement signed with the Congrès national pour la défense du peuple (CNDP) and PARECO in March 2009, as well as with the regional rapprochement between Kinshasa and Kigali. Located within parts of Virunga National Park and Binza *groupement* in Rutshuru territory, North Kivu, FPLC collaborates with FDLR and RUD splinter groups such as those led by Gaheza and Soki. This coalition was responsible for a series of ambush attacks on FARDC positions along the road to Ishasha between December 2010 and February 2011.

43. Former FPLC commander "General" Ngabo Gadi remains in detention in Uganda. While "General" Bisungu, a former FARDC officer in the Eighth Military Region, remained FPLC interim commander, there were indications of a growing influence within FPLC of FARDC deserters with ties to former CNDP leader Laurent Nkunda.

44. FARDC Amani Leo units launched large-scale operations in the Binza *groupement* commencing on 21 February 2011, forcing FPLC further into the Virunga National Park and towards the Ugandan border. FPLC was further weakened following the assassination of "Colonel" Emmanuel Nsengyumva (see S/2010/596, para. 145) by his bodyguard on 26 February 2011, and the surrender or flight of two officers in April 2011. The Group of Experts will continue to monitor FPLC support networks in Binza and in the region.

B. Mai Mai Sheka

45. Despite a meeting between Mai Mai Sheka (see S/2010/596, sect. III.A) with government officials of the Democratic Republic of the Congo on 5 February 2011, no progress has been made towards the group's integration into FARDC or its demobilization. Mai Mai Sheka units continue to be present in areas north of the Osso River in Walikale territory and are actively involved in the gold and diamond trades, re-establishing links with FDLR that had apparently been suspended to facilitate negotiations. In April 2011, Sheka units temporarily occupied the two major mining sites of Omate and Bisie, where they demanded money from diggers and stole minerals. It is possible that such incidents may be used by criminal networks within FARDC to argue in favour of their redeployment to mining sites, undermining gradual progress towards the demilitarization of mining sites since the lifting of the mineral trade suspension on 10 March 2011 (see para. 80).

C. Armée de résistance populaire

46. The Group is investigating the activities of the Armée de résistance populaire (ARP), led by General Faustin Munene, a Chief of Staff of the Congolese Army under former President Laurent Kabila. Munene disappeared from Kinshasa early in October 2010; ARP elements were accused of conducting an attack on a military camp in Kikwit on 3 November 2010 and capturing an unspecified quantity of arms and ammunition from the FARDC stockpile there. The intelligence chief of former President Mobutu, Honoré Ngbanda, has publicly proclaimed his support for ARP. On 18 January 2011, authorities of the Republic of the Congo arrested Munene in Brazzaville, but refused to extradite him to the Democratic Republic of the Congo. Early in February 2011, the authorities of the Democratic Republic of the Congo arrested 77 individuals in the province of Bas Congo and eventually sentenced them to 20 years' imprisonment for having participated in ARP.

47. On 27 February 2011, a group of armed assailants conducted simultaneous attacks in Kinshasa, on the residence of President Kabila and the FARDC logistics base at Camp Kokolo. Having captured and debriefed numerous participants in the attack, the authorities of the Democratic Republic of the Congo have stated that the group received support from both Munene and Ujani Mangbama, a former rebel previously based in Equateur. (Mangbama had surrendered to Brazzaville authorities on 4 May 2010, after leading a surprise attack on the provincial capital of Mbandaka in the Democratic Republic of the Congo on 4 April 2010.) The Group will seek cooperation from the authorities of both the Democratic Republic of the Congo and the Republic of the Congo in investigating sources of material and financial support to ARP.

D. Challenges to the integration or demobilization of Congolese armed groups

48. Since the signature on 23 March 2009 of the agreement between the Government of the Democratic Republic of the Congo, PARECO and CNDP, the Group has sought to monitor the integration of former armed groups in an attempt to highlight the achievements and challenges of such complex processes. The Group will continue to do so, noting such obstacles as the economic interests of criminal networks within FARDC, often involving former members of armed groups.

49. Throughout 2011, the authorities of the Democratic Republic of the Congo have renewed efforts to negotiate the integration of Congolese armed groups into FARDC. The Group welcomes this political commitment to resolve the problem of Congolese armed groups in the Kivus (see also, however, paras. 56-59 below). On 31 December 2010, the Government officially recognized the ranks of CNDP and PARECO soldiers through a Presidential Order, answering a long-standing request of those groups. Many officers also received new uniforms.

50. Early in February 2011, FARDC launched a plan to form new regiments of 1,200 soldiers throughout the Kivus, which should eventually reunify the operational and military region command structures. According to FARDC sources, the principal objectives are to undermine parallel chains of command and loyalties to previous armed groups, and to address the phenomenon of "ghost" soldiers in order to manage overall numbers and salaries more effectively. The regiments are

also designed to facilitate deployments outside the Kivus. The former head of the CNDP parallel police in Masisi, Colonel Esaie Munyakazi (see S/2010/596, para. 160), was appointed to lead a regiment deployed to Bas Congo in February 2011. The Group is encouraged by such efforts, but wishes to note a number of challenges.

51. Ex-CNDP officers consulted by the Group do not believe that the creation of the regiments will lead to their deployment outside the Kivus. According to MONUSCO and international non-governmental organizations, until January 2011 ex-CNDP soldiers continued a wave of recruitment in Masisi territory which began around September 2010 (see S/2010/596, para. 166). Many of those recruits were sent to training camps within the Virunga National Park or in the locality of Tambi, Mpati, Bwiza, Magera and Tabero in Southern Masisi. According to FARDC sources, General Bosco Ntaganda, the Deputy Commander of Amani Leo operations for North and South Kivu (and designated for targeted sanctions by the Committee on 1 November 2005),[9] has ordered many former CNDP soldiers to refuse identity cards provided to them, which would help to better identify those who have yet to be integrated.

52. While CNDP generally complied with the first phase of reorganization into regiments in North and South Kivu, Bosco Ntaganda has sought to dominate the decision-making regarding the composition, command structure and deployments of the second phase, which was set to begin in May 2011. According to FARDC sources, Ntaganda has been able to place officers loyal to him in strategic positions throughout the Kivus and has even protected the interests of those officers still loyal to Laurent Nkunda, who remains imprisoned by Rwandan authorities without trial.

53. Following meetings with high-ranking FARDC officers in January 2011, the Forces républicaines federalistes (FRF; see S/2010/596, sect. III.D) and FARDC agreed upon in situ integration of FRF and the creation of a 44th military sector under the command of (ex-)FRF officers in the High Plateaux of South Kivu and important regional command positions for its senior leadership. Colonel Michel Rukunda (see S/2010/596, para. 62) was named the second Deputy South Kivu Commander for Amani Leo operations. Colonel Willy Mbonigabo was appointed deputy commander of the fourth operational zone. The former President of FRF, Colonel Venant Bisogo (ibid.) however, has yet to assume his agreed functions as the Deputy Commander of the Tenth Military Region. On 26 January 2011, FRF combatants arrived in Minembwe for an integration ceremony at which they were issued FARDC uniforms. The Group is concerned by credible reports that a considerable number of children were recruited just before the integration ceremony and hidden from MONUSCO officials, who arrived to separate children early in February 2011.

54. The important concessions made to FRF have created expectations for other armed groups. In March 2011, Mai Mai Kapopo, from Itombwe sector in South Kivu, was also integrated into FARDC and its military leadership was brought to Bukavu. "General" Georges Kapopo continued to demand the position of commander of the Tenth Military Region and an independent FARDC sector in Itombwe, commanded by his own elements. Instead, as Kapopo informed the Group,

[9] Press release of 1 November 2005; available from www.un.org/News/Press/docs/2005/sc8546.doc.htm.

his combatants were placed under the command of their former enemy, FRF, within the 44th sector and, as a result, in the same month of March 2011, deserted with their weapons, returning to their historic strongholds in Itombwe.

55. Late in January 2011, "General" Lucien "Saddam" Mastaki agreed to join FARDC after having been reappointed as commander of Mai Mai Kifuafua in Hombo, North Kivu. According to Mastaki, his "Division" was sent to Walikale for integration early in February 2011 but was given rations for only 10 days by FARDC. As a result, they returned early in February to their positions along the Hombo-Walikale axis, where the Group has witnessed their multiple illegal taxation barriers. According to FARDC sources, Mai Mai Kifuafua is scheduled to participate in the second wave of regiments created in Walikale territory. However, Mastaki insists that, if this occurs, they must be redeployed to their historic stronghold in southern Walikale.

Options for demobilization, disarmament and reintegration

56. The absence of a viable national programme of demobilization, disarmament, repatriation, reintegration and resettlement with a focus on community reintegration for Congolese combatants represents an important impediment to resolving the presence of armed groups in the Kivus. In June 2010, the Congolese Ministry of Defence authorized the demobilization and reintegration of Congolese ex-combatants in collaboration with MONUSCO (annex IV). As a result, MONUSCO began demobilizing hundreds of combatants through a programme run by the United Nations Development Programme (UNDP) until funds were depleted late in 2010.

57. Since August 2010, the MONUSCO demobilization, disarmament, repatriation, reintegration and resettlement programme has provided certificates and transportation to more than 600 Congolese ex-combatants to facilitate their participation in an eventual community reintegration programme. Early in December 2010, the United Nations Peacebuilding Fund[10] approved US$ 600,000 for a six-month demobilization, disarmament and reintegration programme targeting 4,000 combatants (and based on a combatant-to-weapon ratio of 2:1). The programme was designed to complement FARDC efforts to integrate members of current armed groups into FARDC, in addition to those already demobilized by the MONUSCO programme. Despite the prominence of armed groups' demands for recognition of their ranks, MONUSCO estimates that, if allowed to make an informed decision, over two thirds of all combatants within the Congolese armed groups would choose demobilization and community reintegration over integration into FARDC.

58. In Lubero territory, Deputy Commander "Lieutenant Colonel" Safari defected from PARECO LaFontaine in February 2011 and expressed his willingness to sensitize combatants to participate in the MONUSCO demobilization, disarmament and reintegration programme. MONUSCO built a demobilization camp outside Butembo which was scheduled to open on 7 March 2011. However, on 4 March, the Minister of Defence of the Democratic Republic of the Congo, Charles Mwando Nsimba, indefinitely suspended the process, citing concerns that it would risk encouraging further mobilization of combatants in order to qualify for benefits. Subsequent to this announcement, UNDP received an additional US$ 4 million for

[10] www.unpbf.org/index.shtml.

community reintegration, which cannot be implemented until MONUSCO and FARDC implement the disarmament and demobilization phases. Frustrated by delays in the process, Safari eventually escaped from the care of the demobilization, disarmament and reintegration programme and has ceased any efforts to persuade other members of PARECO to demobilize.

59. The Group recognizes the need to control incentives for new mobilization, but would like to highlight the importance of providing managed demobilization, disarmament and reintegration options for Congolese armed groups, measures which can also help to isolate and diminish the strength of foreign armed groups in the Kivus.

IV. Arms embargo violations and controls

60. The Group is working closely with the authorities of the Democratic Republic of the Congo to gather and analyse information on flows of arms, ammunition and related materiel to armed groups. The three principal themes for its enquiries are: cross-border trafficking, risks of diversion, and estimates of stocks of arms controlled by the major armed groups.

61. The Group's enquiries into cross-border trafficking include scrutiny of land and lake smuggling routes and may logically lead to requests for information on ammunition production, marking and controls in neighbouring countries.

62. In connection with paragraph 14 of resolution 1952 (2010), by which the Security Council reiterated its recommendation to the Government of the Democratic Republic of the Congo to promote stockpile security, accountability and management of arms and ammunition as an urgent priority, the Group of Experts has begun working with FARDC to review current arms and ammunition stockpile management, logistics and accountability practices, in order to identify risks of diversion and recommend practical measures to address these. This assessment will be informed by case studies identified by the Group and the national authorities, and will benefit from coordination with specialized international organizations already active in this domain. The Group is aware of recent notifications to the Committee of arms transfers from Montenegro and Serbia to the Democratic Republic of the Congo, and intends to follow up with the national authorities to verify that these imported weapons are duly recorded and safeguarded from diversion.

63. The Group is in contact with the National Commission on the Control of Small Arms and Light Weapons and Armed Violence Reduction. The National Commission is developing a five-year National Action Plan in line with the requirements of the Nairobi Protocol for the Prevention, Control and Reduction of Small Arms and Light Weapons in the Great Lakes Region and the Horn of Africa.[11] In September 2010, through the Regional Centre on Small Arms,[12] the Democratic Republic of the

[11] The Democratic Republic of the Congo is also a signatory to the Protocol on the Control of Firearms, Ammunition and Other Related Materials in the Southern African Development Community Region, the Code of Conduct for the Defence and Security Forces in Central Africa, and the Central African Convention for the Control of Small Arms and Light Weapons, Their Ammunition and All Parts and Components That Can Be Used for Their Manufacture, Repair and Assembly (Kinshasa Convention).

[12] www.recsasec.org/about.htm.

Congo received three machines for arms marking. Police and the FARDC officers have been trained to use these machines. However, the National Commission informed the Group that further implementation is on hold as it has not received the computers that operate in tandem with the marking machines.[13]

V. Natural resources

64. The Group documented in its final report of 2010 (S/2010/596, para. 173) that, while FARDC military operations had driven armed groups out of many of the principal mining areas, those groups continued to control hundreds of more remote mining sites and to pillage mineral markets, traders or transporters. The Group also concluded that the widespread involvement of criminal networks within FARDC in natural resource exploitation created a conflict of interest with negative consequences for the security situation (S/2010/596, para. 279). The Group recognizes the Government's ongoing efforts to demilitarize mining sites such as Bisie and to place them under police control (see para. 78 below), and encourages similar efforts in smaller, more remote mines. The Group intends to support these efforts by providing information to the authorities of the Democratic Republic of the Congo about the movements and operations of armed groups in mineral-rich areas and the intermediaries they do business with.

65. The Group also documented in its final report of 2010 the financial benefits that armed groups and criminal networks within FARDC continued to receive from illegal exploitation and trade in natural resources other than minerals, including timber, charcoal, control of land, fishing and poaching. The Group will continue to monitor the different ways in which armed actors are involved in the resources trade, including taxation, protection, commercial control and coercive control, as described in that report (S/2010/596, para. 178). To the extent possible, the Group intends to identify the domestic, regional and international buyers, brokers and financiers that directly or indirectly facilitate armed actors' involvement in resources trade and make it profitable.

66. The Group also intends to contact extractive companies to discuss security management issues in those of their exploration and exploitation concessions in areas affected by the presence of armed groups. For example, from 14 to 16 February 2011, a security subcontractor of the British oil company SOCO International was taken hostage near the Virunga National Park.[14]

A. Trafficking networks involving armed actors

67. On 11 September 2010, President Kabila imposed an indefinite suspension of all artisanal mining activity in North Kivu, South Kivu and Maniema in an attempt to address the problem of militarization of the mineral trade. The Group has interviewed mineral *creuseurs*, *négociants* and *comptoirs* (diggers, buyers and trading houses) in North Kivu and South Kivu to explore the impact of the mining

[13] The Group is following up, as the Regional Centre on Small Arms says the computers have been sent to the Democratic Republic of the Congo. The competent authorities of the Democratic Republic of the Congo also need to decide on which ISO codes to use for marking purposes.

[14] See www.socointernational.co.uk/index.php?cID=229&cType=news.

suspension on the pattern of trade and the involvement of armed actors. From those interviews, the Group understands that, although production and trade in cassiterite, coltan and wolframite significantly slowed during the suspension, they did not cease.

68. The Group does not intend to provide a comprehensive picture of fraudulent trade activities during and after the mining suspension period, but to focus on cases involving benefits to armed groups or criminal networks within FARDC (see S/2010/596, summary). The Group is verifying reports that certain FARDC elements used the suspension as a pretext to confiscate minerals, to levy illegal taxes on operators entering mining sites, or simply to take over mining sites. The Group will also seek to corroborate allegations of the use of military vehicles and military intervention at borders to facilitate the illegal export of natural resources during the suspension. The Group is concerned that such practices established during the suspension are likely to continue today, owing to the high incentive to avoid export duties.

69. Two high-profile investigations have drawn renewed attention to the role of regional and international networks involved in the illicit trade in natural resources from the Democratic Republic of the Congo. On 3 February 2011, a Gulfstream jet was impounded at Goma airport and its United States, Nigerian and French passengers were detained during investigations into a gold purchasing deal. The detainees were transferred to Kinshasa and eventually released, after the State prosecutor of the Democratic Republic of the Congo, Flory Kabange, announced on 25 March 2011 that the individuals had paid a US$ 3 million fine and that the authorities had also seized 435 kg of gold and US$ 6 million in cash. In another case of interest, on 3 March 2011, at the request of President Kabila, a joint Kenya-Democratic Republic of the Congo investigation was launched into alleged large-scale gold smuggling through Kenya. On 11 May 2011, Kenyan police arrested three Congolese suspects in connection with this case. The Group has offered to cooperate with the authorities on follow-up of both cases.

B. Impact of the due diligence guidelines

70. The Group's recommended due diligence guidelines (which the Security Council has supported taking forward and are henceforth referred to as United Nations due diligence guidelines; see annex I) were developed in close consultation with Governments in the Great Lakes region (represented in the International Conference of the Great Lakes Region), industry and trade representatives and intergovernmental bodies such as the Organization for Economic Cooperation and Development (OECD). The Group intentionally based its recommended guidelines on the same five steps as were developed by the working group hosted by OECD on due diligence guidelines for responsible supply chains of minerals from conflict-affected and high-risk areas.[15]

71. The OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas was approved by the OECD

[15] The five steps are: strengthening company management systems, identifying and assessing risks in the supply chain, designing and implementing strategies to respond to identified risks, ensuring independent third-party audits, and publicly disclosing supply chain due diligence and findings.

Investment and Development Assistance Committees on 15 December 2010. The Lusaka Declaration, signed by 11 Heads of State of the International Conference of the Great Lakes Region on 16 December 2010, endorsed the OECD Due Diligence Guidance and recognized the importance of due diligence to the Conference's Regional Initiative against the Illegal Exploitation of Natural Resources.

72. The OECD and United Nations recommendations for due diligence guidelines distinguish between those upstream of mineral supply chains, that is, from mine to smelter or refinery, and those downstream, that is, from smelter or refinery to the end-user. The recommendations emphasize the importance of on-the-ground assessments, rather than relying on documentation alone, to enable companies to understand their supply chains and how to identify and mitigate any associated risks. Where risks of providing direct or indirect support to armed groups are identified, the United Nations guidelines recommend that the response should be disengagement until the risk has been removed. In the case of FARDC involvement, attempts should be made to ensure that soldiers progressively cease any illegal involvement in mining and the minerals trade, and are present solely to maintain security and the rule of law. If these attempts fail within six months, the guidelines recommend a shift towards suspension or disengagement.

73. The United Nations and the OECD due diligence guidelines are coherent with each other, but the Group takes this opportunity to highlight three notable differences in application, enforcement and thematic and geographical coverage. First, the United Nations due diligence guidelines are for importers, processing industries and consumers of Congolese mineral products in all 192 States Members of the United Nations, not just the 34 OECD member States. Secondly, whereas the OECD guidance refers to conflict-affected and high-risk areas in general, the United Nations guidelines cover minerals from the Democratic Republic of the Congo and countries in the region through which those minerals are known to transit. Thirdly, whereas the OECD guidance also addresses transparency issues such as tax evasion, bribery and money-laundering, the United Nations guidelines focus on mitigating the risks of individuals and entities violating Security Council resolutions and thus facing potential targeted sanctions by the Council.

74. The Group of Experts, OECD and the International Conference of the Great Lakes Region jointly hosted a meeting on 5 and 6 May 2011 in Paris on the implementation of the OECD and United Nations due diligence guidelines. The meeting enabled useful discussion between a wide range of stakeholders, including representatives of national Governments, international organizations, civil society and industry bodies and companies, concerning due diligence implementation and appropriate ways to monitor the implementation. In accordance with paragraph 6 of resolution 1952 (2010), the Group will monitor the implementation of the Group's due diligence guidelines by importers, processing industries and consumers of Congolese mineral products. The Group will also support the OECD due diligence "implementation phase" by responding to queries from participating companies and independent auditors, insofar as these queries are reasonable and relevant to the Group's mandate.

75. Within its capacities, and without prejudice to its other tasks, the Group will further assess how due diligence could be adapted to other main participants in the minerals supply chain, including transporters and providers of financial services, as well as individuals and entities prospecting, exploring for and extracting minerals in

the eastern Democratic Republic of the Congo. The Group considers that these sectors currently lack tailored due diligence guidance, yet individuals and entities operating within these sectors could still be recommended for targeted sanctions where there is evidence that the individuals or entities have directly or indirectly supported an illegal armed group in the Democratic Republic of the Congo.

76. The Group looks forward to discussions with neighbouring States concerning their role in, and contribution to, improved natural resource governance in the Great Lakes region and the Democratic Republic of the Congo. Pursuant to paragraph 8 of resolution 1952 (2010), the Group is asking Member States what steps they are taking to raise awareness of the due diligence guidelines referred to in the resolution, and to urge importers, processing industries and consumers of Congolese mineral products to exercise due diligence by applying the guidelines. The Group also reminds Member States of the recommendation of the Security Council in paragraph 19 of resolution 1952 (2010) that all States, particularly those in the Great Lakes region, regularly publish full import and export statistics for gold, cassiterite, coltan, wolframite, timber and charcoal, and enhance information-sharing and joint action at the regional level to investigate and combat regional criminal networks and armed groups involved in the illegal exploitation of natural resources.

C. Mineral supply chain traceability

77. A key element of any due diligence exercise is the traceability of the supply chain. The Group is monitoring a number of initiatives that respond to this challenge. An important pilot intervention that will facilitate many of these initiatives is the opening of pilot trading centres (*centres de négoce*) with the support of the Congolese mining administration, MONUSCO, the International Organization for Migration (IOM) and Partenariat Appui Gouvernance (see box).

Centres de négoce

As of May 2011, three of the five planned *centres de négoce* (Mugogo, Rubaya and Isanga) had been constructed. MONUSCO has informed the Group that, of the two remaining centres, only Itebero (Walikale territory, North Kivu) is likely to be completed in the near future. It is not clear when construction of the fifth will begin in Numbi (Kalehe territory, South Kivu).

The *centres de négoce* will offer marketplaces where traceable minerals from "clean" mining sites within a 25-km radius can be traded in a secure environment before onward transportation. On 18 April 2011, the Minister of Mines of the Democratic Republic of the Congo published terms of reference for mixed teams who will "validate" mining sites within the radius as free of armed groups or military (and not employing children under 15 or pregnant women). Each team should include representatives of the Government's Small-scale Mining Assistance and Training Service, the Mining Police (*Police des mines*), the German Federal Institute for Geoscience and Natural Resources, MONUSCO, the private sector, civil society and possibly OECD. Teams will also have to formulate a response to non-validated mining sites.

The centres could demonstrate the feasibility of generating a supply of minerals compliant with United Nations and OECD due diligence guidelines. They may thus allow for the progressive return of international buyers and create economic incentives to demilitarize other mining sites. Although the *centres de négoce* project covers only a limited number of mining sites at this stage, the inclusion of the main mine of Bisie would bring in more than two thirds of all cassiterite production in North Kivu.

78. In March and April 2011, the Group participated in coordination meetings on the demilitarization of mining areas and the implementation of the *centres de négoce* project. FARDC representatives promised the immediate withdrawal of troops from selected sites once the Mining Police are ready for deployment. According to a deployment plan submitted by the provincial police to the provincial Governor on 25 March 2011, 140 members of the Mining Police are to be deployed at six sites in Walikale territory supplying the *centre de négoce* of Isanga. MONUSCO has trained these mining police forces and is ready to assist their deployment, which had not begun by mid-May, however.

79. According to the *centres de négoce* project document, MONUSCO is also supposed to monitor the zones and the supply routes around the centres in order to contribute to the stability of the environment, although further definition of this role is urgently needed. According to many MONUSCO officials, it is not feasible for the peacekeeping mission to provide permanent security at mines and along supply routes, given limited resources and competing priorities, in particular the protection of civilians. However, accompanying national officials in regular spot checks and monitoring visits remains an option that the Group would strongly encourage.

80. In its report of 2010 (S/2010/596, box 11), the Group reported on another traceability initiative, the ITRI Tin Supply Chain Initiative (iTSCi). During the suspension of mining activity, ITRI/iTSCi stopped its pilot project in the Kivus, but was able to begin a new tagging operation in Katanga Province late in March 2011. In the latter part of 2010, ITRI also started to tag minerals in Rwanda, with the Rwandan Geology and Mines Authority announcing in April 2011 that it was tagging 80 per cent of Rwanda's domestic cassiterite, coltan and wolframite production. According to ITRI, one-off financial contributions from downstream industry stakeholders assisted with the set-up costs of the pilot project but, since September 2010, all funding has come from exporters from the Democratic Republic of the Congo and Rwanda with some additional contributions from involved traders and processors.

81. In October 2010, the Ministry of Mining and the Ministry of Finance of the Democratic Republic of the Congo produced a traceability procedures manual for the extraction and export of mining products. The manual spells out the fiscal obligations of companies and defines the roles and responsibilities of State agencies involved in the inspection and supervision of mining activities, in monitoring the flows of commercial mining products and in weighing, sealing, certification and loading prior to export.

82. At the Lusaka summit in December 2010, States members of the International Conference of the Great Lakes Region endorsed a proposed regional certification mechanism to set standards and establish systems for tracking and certifying four high-value, conflict-prone minerals: gold, coltan, tungsten and tin. The proposed chain-of-custody tracking makes use of national and industry-supported traceability systems already in place, such as iTSCi. Data generated at the national level feed into a publicly available regional database, which should make it possible to detect and address potential smuggling into the system. Once the system is in place, a national export permit or certificate of origin can be replaced with an International Conference of the Great Lakes Region regional certificate which will serve as a region-wide guarantee that minerals were mined under acceptable conditions.

83. In December 2010, two electronics industry organizations, the Global e-Sustainability Initiative (GeSI)[16] and the Electronic Industry Citizenship Coalition (EICC),[17] launched a "conflict-free smelter" assessment programme that should help companies to satisfy reporting requirements under section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (see also para. 27 above). Assessments are carried out by independent third parties to determine whether smelters have demonstrated that all the materials they process originate from conflict-free sources. A first tantalum smelter assessment has been completed and additional tantalum and cassiterite smelters are scheduled to be assessed in 2011. To be eligible for assessment, smelters sourcing from the Democratic Republic of the Congo or neighbouring countries must implement and demonstrate adherence to the OECD guidance. The protocols used in the conflict-free smelter assessments for different minerals are not publicly available and will be reviewed after the publication of the final regulations related to section 1502 of the Dodd-Frank Act.

84. The publication of the aforementioned regulations was foreseen for 15 April 2011 but has been delayed until the second half of 2011,[18] as has the submission of a strategy by the United States Secretary of State to the appropriate congressional committees for addressing the linkages between human rights abuses, armed groups, mining of conflict minerals, and commercial products. The strategy is supposed to include a plan to provide guidance to commercial entities seeking to exercise due diligence on the "Democratic Republic of the Congo conflict free"[19] status of their minerals. As already noted in paragraph 27, the Dodd-Frank Act has been an important catalyst for traceability and certification initiatives and due diligence implementation. However, as with all market interventions, there is a risk of unintended consequences, including the withdrawal of reputable international companies from the minerals market of the Democratic Republic of the Congo.

---

[16] www.gesi.org/.

[17] www.eicc.info/.

[18] www.ey.com/Publication/vwLUAssets/Conflict_minerals_Dodd-Frank_Act_Section_1502/$FILE/Conflict_minerals_Dodd-Frank_Act_Section_1502.pdf.

[19] "Democratic Republic of the Congo conflict free" under section 1502 of the Dodd-Frank Act means that the products do not contain minerals that directly or indirectly finance or benefit armed groups in the Democratic Republic of the Congo or an adjoining country. The term "armed group" is defined as [armed] perpetrators of serious human rights abuses in the annual country reports on human rights practices under the United States Foreign Assistance Act of 1961, and could therefore, pending further clarification, include both illegal armed groups and national armed forces.

VI. Customs and border controls

85. Since strengthened border controls and cross-border cooperation would help to combat the smuggling of arms, ammunition, natural resources and contraband goods in the region, the Group plans to review the procedures for clearing goods entering and leaving the Democratic Republic of the Congo, including via the ports of Mombasa and Dar es Salaam.

86. The Group has met and exchanged information with aviation officials of the Régie des voies aériennes and officials of the Société nationale des chemins de fer du Congo who oversee the management of ports on lakes and rivers in the eastern Democratic Republic of the Congo. The Group wishes to express its appreciation for the cooperation with Régie des voies aériennes officials, in particular. The Group is also in contact with the Direction générale des douanes et accises, the Direction générale des migrations, the Office congolais de contrôle and the North Kivu border police (Police des frontières).

87. With regard to cross-border trafficking, the Customs authorities of the Democratic Republic of the Congo signed bilateral agreements with counterparts from Rwanda (22 April 2011) and Burundi (25 April 2011) to facilitate and secure cross-border trade between the countries. Through such collaboration, Customs officials would exchange information on all shipments, reducing the possibilities for illegal trafficking and fraud. Similar accords have been signed with Uganda (2008) and other countries in the region, and agreements are to be signed with China and India soon. The Group will report on the implementation of such agreements in its final report.

88. On 27 December 2010, the Vice-Prime Minister of the Democratic Republic of the Congo, Adolphe Lumanu, signed an order limiting the number of State services present at border posts to four: Direction générale des douanes et accises, Office congolais de contrôle, Direction générale des migrations and the Hygiene Service. A fifth service, the border police, was subsequently added. In addition, so-called "one-stop counters" are being established at border posts for payment of duties and taxes to bank personnel with the aim of centralizing tax payments, reducing fraud and easing cross-border movement. According to the Direction générale des douanes et accises, the system is in place at the Goma, Ishasha, Beni and Kasindi border posts in North Kivu, and will soon be established at Bunagana and other eastern border posts. Whereas the necessary equipment has been installed, the Group observed on the ground that the system is not yet operational. Wherever the "one-stop counters" are installed, tax revenues (an estimated 40 per cent of the national budget of the Democratic Republic of the Congo) are expected to rise.

89. At the CEPGL summit in Kigali on 21 January 2011, the Defence Ministers of the Democratic Republic of the Congo, Rwanda and Burundi adopted a binding protocol on mutual regional defence and security. Ministers agreed on a common defence programme including joint border surveillance mechanisms and joint intelligence cells. A high-ranking FARDC officer informed the Group that the joint intelligence cell is already operational, and the three countries have pledged to create joint battalions for border surveillance during 2011.

VII. Violations of international humanitarian and human rights law

90. In resolution 1952 (2010), the Security Council noted with great concern the persistence of human rights and humanitarian law violations against civilians in the eastern part of the Democratic Republic of the Congo, including the killing and displacement of significant numbers of civilians, the recruitment and use of child soldiers, and widespread sexual violence, and stressed that perpetrators must be brought to justice.

91. Several landmark trials gave cause for cautious optimism that the Government of the Democratic Republic of the Congo is addressing long-entrenched impunity for war crimes and serious human rights violations:

- A mobile court in Baraka, South Kivu, sentenced FARDC Lieutenant Colonel Kibibi Mutware on 21 February 2011 to 20 years' imprisonment for mass rapes committed by soldiers under his command in Fizi in apparent reprisal for the earlier lynching of a soldier from their unit.
- The trial of Colonel Daniel Mukalai and seven other police officers for the murder on 2 June 2010 of the prominent human rights activist, Floribert Chebeya, and his driver, Fidèle Bazana Edadi, continued at the High Military Court in Kinshasa.
- An official investigation into the mass rapes perpetrated in Walikale territory late in July 2010 (see S/2010/596, paras 144-146) is ongoing, although there have been some delays linked to concerns for the safety of witnesses.
- Consultations were held to develop proposals for a specialized mixed court for the prosecution of the most serious international crimes committed on Congolese soil since 1990.

92. On the other hand, these positive steps remain exceptions, as many other alleged serious violations of international and national law have not led to investigation or prosecution. All parties to the conflict continue to commit frequent and flagrant violations of international humanitarian law, many of which involve the targeting of (non-combatant) women or children. All such violations are serious, but with regard to its mandate to recommend individuals for targeted sanctions, the Group interprets "serious violations" to mean those involving systematic armed attacks targeting a large number of non-combatant victims, including women or children.[20]

93. While the Group deems it more appropriate for perpetrators of such serious crimes to be legally prosecuted than to be designated for targeted sanctions, the Group will seek information helping to identify those with command responsibility, without prejudice to any ongoing or future judicial or specialist human rights investigations, and conscious of the need to protect the safety of witnesses.

[20] Serious violations of applicable international law would include grave breaches of common article 3 of the Geneva Conventions and those violations listed under article 8 of the Rome Statute of the International Criminal Court.

Recruitment and use of children in armed conflict situations in violation of applicable law

94. Pursuant to paragraphs 4 (d) and 4 (e) of resolution 1857 (2008), the Group will continue to monitor recruitment trends and to research and document case studies involving command responsibility for the recruitment and use of children in violation of applicable international law, focusing on the most systematic cases.

Obstruction of distribution of or access to humanitarian assistance

95. In its final report of 2010 (S/2010/596, para. 149), the Group concluded that, despite a rising number of security incidents affecting humanitarian operations, there was no evidence of intent on the part of individuals systematically to prevent the distribution of humanitarian assistance. During the current mandate, the Group will revisit this question, in close consultation with humanitarian agencies and local authorities, as appropriate, and pursuant to paragraph 4 (f) of resolution 1857 (2008).

VIII. Updates, right of reply and corrections

A. Designated individuals and entities

96. Pursuant to paragraph 9 of resolution 1857 (2008), the Group of Experts is mandated to assist the Committee in updating the publicly available reasons for listing individuals and entities, as well as their identifying information. The Group considers that it is important for the credibility of the process that the list of designated individuals and entities should be kept as factually up to date as possible. Similarly, the Group recommends that the Committee should consider de-listing those individuals and entities no longer found to be violating the provisions of the arms embargo, and to designate more of those shown recently to have violated the terms of the embargo. To that end, the Group is providing the Committee with updates on several designated individuals and entities (see annex V).

B. Right of reply

97. The Group's methodology (see section I.B) is based on the general principle of fairness, which includes the right of reply of individuals and entities mentioned in its reports. In accordance with paragraph 28 of the report of the Informal Working Group of the Security Council on General Issues of Sanctions (S/2006/997), where it is stated that rebuttals, with an assessment of their credibility, and corrections regarding already published allegations, should be included in subsequent reports, the Group has made efforts to respond to communications regarding particular cases. The Group is committed to further monitoring the activities of individuals and entities referred to in previous reports, as well as to communicating with them in writing and, when possible, in person.

Mr. Tribert Rujugiro

98. During the course of its 2008 mandate, the Group of Experts investigated the activities of Mr. Tribert Rujugiro, an adviser to President Paul Kagame and

Chairman of Tri-Star Holdings, an investment group involved in economic activities in RCD-Goma-occupied territories during 1998-2003.

99. In its final report of 2008 (S/2008/773), the Group referred to numerous e-mails clearly indicating conversations of a military nature between Mr. Rujugiro and CNDP officers. Mr. Rujugiro's lawyers subsequently questioned the authenticity of the e-mails, at the same time asking how the Group could have obtained them without violating local and international law. The Group has since had the opportunity to explain to Mr. Rujugiro's representatives that the e-mails were legally obtained from a private company, in response to a documented request by the Group to a State Member of the United Nations.

100. In a 150-page document sent to the Group of Experts (dated 14 September 2010), which was referenced in the Group's final report of 2010 (S/2010/596, annex 1, footnote c), Mr. Rujugiro's United States-based legal representatives denied that he had purchased or invested in lands in "Masisi district" (sic) while they were under CNDP control; held meetings with CNDP leaders, including "General" Nkunda at his ranches in Kilolirwe in 2006; paid money to CNDP for "protection" of cattle on his ranches; or appointed a CNDP commander to manage his ranches. The Group stands by its findings and provides further details in annex VI.

Brothers of Charity

101. In April 2011, the Group communicated with the Brothers of Charity, a Catholic congregation based in Kigoma, United Republic of Tanzania, with regard to the Group's final report of November 2009 (S/2009/603). Members of the organization confirmed that they had often facilitated money transfers for Congolese and Rwandan refugees who were not able to easily access such services in the United Republic of Tanzania, without verifying the purpose or ultimate destination of such funds. The Brothers of Charity have informed the Group that they ceased facilitating such money transfers early in 2010. The Brothers of Charity also informed the Group that the Government of the United Republic of Tanzania conducted a thorough investigation of their activities in 2010, following the Group's final report of 2009. The Group has asked the Tanzanian authorities for the results of such investigations.

Lukopfu land conflict

102. In its final report of 2010 (S/2010/596, paras. 269-270), the Group referred to a land conflict in Lukopfu, North Kivu, where the involvement of both FARDC soldiers and a local militia led to a series of human rights abuses. On 3 December 2010, Mr. Muiti Muhindo, a lawyer representing the owner of the disputed farm, Mr. Aloys Tegera, addressed a letter to the Secretary-General, responding to the Group's final report. The Group is disappointed that Mr. Muhindo's letter falsified text placed within quotation marks and cited as if from paragraphs 269 and 270 of the Group's final report (see annex VII). Contrary to Mr. Muhindo's letter, the Group did not allege that Mr. Tegera was responsible for the human rights violations which occurred as a result of the conflict linked to his farm. Rather, Mr. Tegera was simply named as the reported owner of the disputed land, a fact corroborated by multiple sources in 2010, including land registry officials (who stated, however, that they did not have a copy of the title on file), FARDC officers, MONUSCO, local authorities in Lukopfu, and independent non-governmental organizations.

103. At a meeting with the Group in April 2011, Mr. Tegera confirmed having written to three high-ranking FARDC commanders requesting their protection of his farm (see annex IX). Further comments on this case are attached in annex VIII.

Mr. Victor Ngezayo

104. The Group met Mr. Victor Ngezayo in April 2011 to discuss his objections to citations in the final reports of 2008 and 2010 (S/2008/773 and S/2010/596). With regard to the 2008 report (para. 124), Mr. Ngezayo denied having past links to the Front populaire pour la justice au Congo (FPJC). On the basis of a review of the evidence in the Group's archives (which is not substantively contradicted by documentation subsequently provided by Mr. Ngezayo), the Group concludes that there was sufficient evidence, including from FPJC sources, to indicate that Mr. Ngezayo was indeed in contact with FPJC, but not to present him as a political leader of that group, an overstatement the Group hereby acknowledges and regrets.

105. In its final report of 2010 (S/2010/596, para. 276), the Group cited an incident in which troops reporting to Colonel Makenga, the South Kivu deputy commander for FARDC Amani Leo operations, became involved in a land dispute on behalf of Mr. Ngezayo, a fact the latter confirmed to the Group on 27 August 2010, while explaining that he had exhausted the alternatives, including calls to the Governor of South Kivu and the Commander of Amani Leo operations.

106. However, Mr. Ngezayo reasonably objects to the fact that, although he was described in the opening sentence as the landowner, later in the paragraph other claimants of the land are described as "evicted owners". This was both inconsistent and an oversight, as it is not within the mandate or competence of the Group to comment on the legitimacy of legal claims. The Group takes this opportunity to add that its practice is to monitor land conflicts only where there are allegations of grave violations of human rights and/or the involvement of armed groups or criminal networks. Mr. Ngezayo's concerns are further detailed and responded to point by point in annex X.

Lord's Resistance Army

107. In paragraph 106 of S/2010/596 the Group referred to reports of contacts between an LRA delegation and the Sudanese Armed Forces. These occurred in October 2009, not October 2010.

RUD-Urunana

108. At the outset of its mandate, the Group met with the Secretary-General of RUD, Félicien Kanyamibwa, and its spokesperson Augustin Dakuze, who sought to respond to the Group's final report of 2010 (S/2010/596). They denied any responsibility for events ending the Kasiki demobilization process in February 2009 (ibid., box 2), instead blaming its failure on alleged attacks by Rwandan forces, the outcome of a visit to assess conditions in Rwanda in January 2009 and the rapprochement between the Governments of Rwanda and the Democratic Republic of the Congo. They also disavowed political connections with FDLR or the Rwandan National Congress.

IX. Recommendations

109. The Group respectfully invites the Committee:

(a) To review, revise and update at the earliest opportunity its list of individuals and entities designated for targeted sanctions on the basis of information provided by the current Group of Experts and its predecessors, as well as other sources.

(b) To request Member States to provide more detailed and complete information in their notifications of arms transfers to the Democratic Republic of the Congo, in line with the Group's recommendations in its interim report of 2010 (S/2010/252) and the guidelines of the Committee,[21] especially regarding small arms and light weapons.

(c) To publish translations of the due diligence guidelines (annex I) in all United Nations languages on the Committee's website, and to further encourage all Member States to convey the guidelines to importers, processing industries and consumers of mineral products under their jurisdiction.

(d) To encourage Member States to transmit relevant information to the Group of Experts on the basis of its mandate and not only in response to the Group's official enquiries.

MONUSCO

110. The Group invites the Security Council, in reviewing the mandate of MONUSCO, to consider allocating a higher priority to the tasks outlined in paragraph 12 (t) of resolution 1925 (2010).

111. Pursuant to that same paragraph 12 (t) of resolution 1925 (2010), MONUSCO and the Ministry of the Interior of the Democratic Republic of the Congo should revitalize and implement procedures for joint inspections of air cargo, land transportation and warehouse facilities. Likewise, MONUSCO and FARDC should clarify procedures and affirm their readiness to conduct joint operations to seize arms or related material whose presence in the Democratic Republic of the Congo violates the measures imposed by paragraph 1 of resolution 1896 (2009).

112. Pursuant to paragraph 12 (r) of resolution 1925 (2010), MONUSCO should allocate resources to accompany and support competent officials of the Democratic Republic of the Congo in carrying out spot checks and monitoring or "validation" visits to mining sites, trade routes and markets in the vicinity of pilot *centres de négoce*.

Due diligence

113. The Group encourages international buyers, processors and consumers of minerals to support the progressive demilitarization of the mining sector in the eastern Democratic Republic of the Congo by remaining engaged in the Democratic Republic of the Congo and the regional market while implementing supply chain due diligence.

[21] See paragraphs 11(a) and (b) of the guidelines (updated as at 6 August 2010); available from www.un.org/sc/committees/1533/pdf/S%20AC.43%202010%20Guidelines%20FINAL%20(6%20August%202010).pdf.

Weapons marking, stockpile management and accountability

114. To enable the authorities of the Democratic Republic of the Congo to begin marking State-owned firearms in accordance with the Nairobi Protocol for the Prevention, Control and Reduction of Small Arms and Light Weapons, the three weapons-marking machines in the Democratic Republic of the Congo need to be paired with computers without further delay. In due course, the Regional Centre on Small Arms and the Commission nationale de contrôle des armes légères of the Democratic Republic of the Congo should review the case for providing additional marking machines, in recognition of the scale and logistical challenges facing the country.

115. All Member States should consider both the risk of diversion and the level of commitment to regionally agreed weapons and ammunition stockpile management, accountability and marking standards among their criteria for granting export licences to States in the Central and Eastern Africa region.

Border controls

116. Donors should support those regional Governments that are demonstrably committed to implementing technical cross-border cooperation agreements. The International Conference on the Great Lakes Region should encourage the identification and exchange of lessons and good practice from such joint efforts, including reporting of tangible outcomes including seizures of trafficked goods.

Army integration and disarmament, demobilization and reintegration

117. The Government of the Democratic Republic of the Congo should continue efforts to further integrate, train and reform its national army, and to prosecute illegal actions.

118. The Government of the Democratic Republic of the Congo should give a clear commitment to re-launch a national disarmament, demobilization and reintegration programme for Congolese armed groups that offers meaningful alternatives to integration into FARDC.

Group of Experts e-mail address

119. The Group of Experts would welcome dissemination by mainstream and specialist media of its public e-mail address for confidential sharing of information and evidence relevant to the Group's mandate, for example activities falling within the criteria listed in paragraph 2 of this report: goedrc@un.org.

Annex I

Consolidated version of due diligence guidelines provided by the Group of Experts in its final report of 2010 (S/2010/596, paras. 327-369)

Due diligence guidelines for the responsible supply chain of minerals from "red flag locations" to mitigate the risk of providing direct or indirect support for conflict in the eastern part of the Democratic Republic of the Congo; criminal networks and/or perpetrators of serious human rights abuses, particularly within the State's armed forces; armed groups in the eastern part of the Democratic Republic of the Congo; and violations of the asset freeze and travel ban on sanctioned individuals and entities

Step 1: Strengthening company management systems

A. There are four main elements to this part of the process. First, relevant individuals and entities should adopt, publicly disseminate and clearly communicate to suppliers a supply chain policy for minerals originating from red flag locations, and incorporate it into contracts with suppliers. The supply chain policy should include the following elements:

Recognizing the risk of exacerbating conflict through providing direct or indirect support for armed groups in the eastern part of the Democratic Republic of the Congo; criminal networks and/or perpetrators of serious human rights abuses, particularly within the State's armed forces; and/or violations of the asset freeze and travel ban on sanctioned individuals and entities,[a] associated with extracting, trading, processing and consuming minerals from red flag locations, we commit to respect, publicly and widely disseminate and clearly communicate the following policy:

(a) We will not tolerate any direct or indirect support for armed groups from the eastern part of the Democratic Republic of the Congo; criminal networks and/or perpetrators of human rights abuses, particularly within the State's armed forces; and/or sanctioned individuals or entities through the extraction, trade, processing and consumption of minerals. "Direct or indirect support to armed groups from the eastern part of the Democratic Republic of the Congo; criminal networks and/or perpetrators of human rights abuses, particularly within the State's armed forces; and/or sanctioned individuals or entities" means making payments to, or otherwise providing logistical assistance to, or extracting, trading, processing and consuming minerals where illegal armed groups in the eastern part of the Democratic Republic of the Congo; criminal networks and/or perpetrators of serious human rights abuses, particularly within the armed forces; and/or sanctioned individuals or entities or their affiliates (including *négociants*, consolidators, intermediaries and any others in the supply chain who work directly with armed groups, criminal networks and/or perpetrators of serious human rights abuses, particularly with the State's armed forces, and/or sanctioned individuals or entities to facilitate the extraction, trade or handling of minerals) are:

[a] www.un.org/sc/committees/1533/pdf/1533_list.pdf.

(i) In physical control of the mines of origin or transportation routes from the mines;

(ii) Demanding forced or compulsory labour from any person, under the threat of violence or other penalty, who has not voluntarily offered to mine, transport, trade or sell minerals;

(iii) Illegally taxing or extorting money or minerals at points of access to mine sites, along transportation routes or at points where minerals are traded;

(iv) Illegally taxing, extorting or controlling intermediaries, export companies or international traders;

(v) Illegally financing mining activities.

(b) We will mitigate the risk of support for armed groups in the eastern part of the Democratic Republic of the Congo and/or sanctioned individuals and entities by immediately suspending or discontinuing engagement with upstream suppliers where we identify a reasonable risk that they are sourcing from, or are linked to, any party providing direct or indirect support to illegal armed groups and/or sanctioned individuals or entities through the extraction, transport, trade, processing, handling or consumption of minerals.

(c) We will mitigate the risk of providing direct or indirect support to criminal networks and/or perpetrators of serious human rights abuses, particularly within the State's armed forces by:

(i) Refusing to enter into business relationships with serving military personnel or their representatives;

(ii) Eliminating direct or indirect support to public security forces that illegally control mines of origin, transportation routes and upstream actors in the supply chain; illegally tax or extort money or minerals at points of access to mine sites, along mineral transportation routes or at points where minerals are traded; or illegally tax or extort upstream intermediaries, export companies or international traders; and will suspend or discontinue engagement with upstream suppliers after failed attempts at mitigation and without measurable and substantial improvements within six months. In the case of suspension, we shall re-engage with upstream suppliers after a minimum period of three months, by mutual agreement of an improvement plan, stating the performance objectives and quantitative indicators with regard to mitigating those risks that need to be met before a trading partnership may resume.

B. Second, relevant individuals and entities should structure their internal management systems to support due diligence, including:

(a) The assignation of sufficient authority and responsibility in this regard to staff;

(b) The provision of sufficient resources, ensuring that relevant information concerning due diligence, including company policy, reaches relevant employees and suppliers;

(c) Ensuring internal accountability with respect to the implementation of due diligence.

C. Third, relevant individuals and entities should establish effective systems of control and transparency over the mineral supply chain. The nature of these systems will vary according to the mineral being traded, with the gold supply chain exhibiting characteristics different to those for tin, tantalum and tungsten, and according to the position of the individual or entity in the supply chain:

(a) For those in the "upstream" of the mineral supply chains, that is to say from mine sites in the eastern part of the Democratic Republic of the Congo to smelters or refineries, the objective of these systems of control and transparency should be to establish, document and verify:

(i) The nature and exact origin of the minerals to the level of the quarry or pit shaft (*carrière*) and the date, method and quantity of their extraction. The documentation collected should include all the documents required by the Congolese authorities in this regard (see S/2010/596, annex 58);

(ii) The value and beneficiaries of all taxes, fees, royalties and other payments made, including to armed groups, criminal networks and/or perpetrators of serious human rights abuses, particularly within the State's armed forces, and/or sanctioned individuals and entities, at or near the mine site and at any other point on the supply chain;

(iii) The exact locations where minerals are consolidated, traded, processed or upgraded;

(iv) All upstream intermediaries involved in the supply chain.

(b) The information should be relayed down the supply chain from the mine site to the smelter or refinery. Over time, the quality of this information should improve as a result of due diligence implementation by relevant individuals and entities, which should in turn yield improved risk assessments.

(c) Individuals and entities receiving the information specified above from those further upstream in the supply chain should not simply assume it to be accurate, but should instead take appropriate and effective measures to verify its accuracy. Individuals and entities that do not receive any or all of this information from those upstream of them should take effective extra measures to obtain the information.

(d) The data should be held for at least five years, preferably in computerized form, and should be made available to downstream purchasers and auditors.

(e) Cash purchases should be avoided where possible. Where cash purchases are used, they should be supported by verifiable documentation and preferably routed though official banking channels.

(f) Relevant individuals and entities should support the implementation of the principles and criteria set out under the Extractive Industries Transparency Initiative.[b]

[b] See http://eiti.org.

(g) For those in the "downstream" of the mineral supply chains, that is to say from smelter or refinery to consumer or end-user, the objective of these systems of control and transparency should be:

(i) To identify the smelters or refineries in their supply chains;

(ii) To establish, document and verify whether the smelters or refineries they source from are themselves sourcing minerals from red flag locations;

(iii) To require smelters and refineries processing material from red flag locations to provide them with evidence of their supply chain due diligence, as detailed above;

(iv) To assess the accuracy of the evidence provided by these refineries or smelters regarding their supply chain due diligence;

(v) To take effective extra measures to obtain relevant information on due diligence not provided by upstream suppliers.

(h) All relevant individuals and entities should strengthen their engagement with their suppliers to ensure that they commit to the supply chain policy, standards and processes contained in this guidance. To that end, relevant individuals and entities should seek:

(i) To establish long-term relationships with suppliers;

(ii) To communicate this due diligence guidance to them;

(iii) To build it into contracts and other written agreements that can be applied and monitored, including the right to unannounced spot checks and access to relevant documentation;

(iv) To design measurable improvement plans with suppliers.

D. Fourth, all individuals and entities should develop mechanisms allowing any interested parties to voice and record concerns regarding the circumstances of mineral extraction, trade, handling and export in red flag locations, particularly in relation to the involvement of armed groups in the eastern part of the Democratic Republic of the Congo; criminal networks and/or perpetrators of serious human rights abuses and/or sanctioned individuals and entities.

Step 2: Identifying and assessing risks in the supply chain

A. Relevant individuals and entities need to identify and assess the risks of providing direct or indirect support to armed groups, criminal networks and/or perpetrators of human rights abuses, particularly within the State's armed forces, and/or to sanctioned individuals and entities through the import, processing or consumption of minerals from red flag locations.

B. Individuals and entities in the "upstream" of mineral supply chains in the eastern part of the Democratic Republic of the Congo should use the information collected via step one and gather additional relevant information through their own or jointly conducted on-the-ground assessments in order to map the supply chains and assess risk effectively. Mapping supply chains includes determining their factual circumstances, assessing the security context, clarifying the chain of custody, activities and relationships of all upstream suppliers and identifying the locations and qualitative conditions of the extraction, trade, handling and (where relevant)

export of the mineral. While on-the-ground assessments may be performed by or on behalf of multiple relevant individuals and entities, each remains individually responsible for identifying their own risk of providing direct or indirect support to armed groups and to sanctioned individuals and entities through the import, processing or consumption of minerals from red flag locations.

C. Individuals and entities in the "downstream" of supply chains of minerals from red flag locations need to assess the due diligence practices of their smelters and refineries, which will include the assessment of the due diligence practices of their upstream supplies. Assessments may include conducting spot checks on the facilities of smelters and refineries.

D. To assess their risk of providing direct or indirect support to armed groups in the eastern part of the Democratic Republic of the Congo, criminal networks and/or perpetrators of human rights abuses, particularly within the State's armed forces, and/or individuals and entities subject to sanctions, all relevant individuals and entities both upstream and downstream of mineral supply chains should assess the factual circumstances of their supply chains against the supply chain policy outlined above. Inconsistencies between factual circumstances and the supply chain policy should be considered as indicative of the risks of providing direct or indirect support to armed groups and/or to sanctioned individuals and entities.

Step 3: Designing and implementing strategies to respond to identified risks

A. For step 3, the Group considers it appropriate for relevant individuals and entities to design and implement strategies to mitigate the risks of providing direct or indirect support to criminal networks and/or perpetrators of human rights abuses, particularly within the State's armed forces that are different to the strategies they design and implement to mitigate the risks of providing direct or indirect support for armed groups and/or sanctioned individuals and entities.

B. The Group recommends that where risks of providing direct or indirect support to armed groups in the eastern part of the Democratic Republic of the Congo or to sanctioned individuals or entities are identified, the response should be disengagement from the relevant upstream suppliers until the risk has been removed. Disengagement may be accompanied by mutual agreement of the performance objectives and quantitative indicators with regard to the risks that need to be met before a trading partnership may resume.

C. Strategies to mitigate the risks of providing direct or indirect support to criminal networks and/or perpetrators of serious human rights abuses, particularly within the State's armed forces, should ensure that where the State's armed forces and other security services are present at mine sites and/or surrounding areas and/or along trade routes, they progressively cease any illegal involvement in mining and trade in minerals, including through illegal taxation and extortion of money or mineral shares, and that they are present solely to maintain security and the rule of law.

D. Relevant individuals and entities should be aware that it is illegal under Congolese law for any members of FARDC to be involved in any aspect of the extraction, handling, trade or processing of minerals (see S/2010/596, annexes 20 and 21) and should respect and obey the laws even where they are not enforced.

E. Any payments to the armed forces at or around mine sites or at any other stage in the supply chain should be solely for the provision of security and the rule of law and should be done transparently and via appropriate civilian structures, such as the provincial or national administration.

F. Strategies to mitigate the risk of directly or indirectly supporting criminal networks and/or perpetrators of serious human rights abuses, particularly within the State's armed forces, do not readily yield quantitative indicators, but must nonetheless be regularly, thoroughly and systematically evaluated by those implementing them to assess their impact. The evaluations should be considered by auditors examining smelter/refinery due diligence. The Group recommends that individuals and entities conducting these evaluations refer to the Group's description of the different types of military involvement in mining in paragraph 178 of S/2010/596 to assist in this process. If the evaluation finds that within six months of the strategy's initiation there is no substantial progress towards its ends, the strategy should shift to suspension or discontinued engagement with the supplier for a minimum of three months. Suspension may be accompanied by mutual agreement on an improvement plan stating the performance objectives and quantitative indicators with regard to mitigating the risks that need to be met before a trading partnership may resume.

G. Relevant individuals and entities should regularly review their risk mitigation strategies to ensure that they remain informed of the relevant factual circumstances of their supply chains and continue to evaluate them against their supply chain policy. Strategies to prevent such risks should be amended in the light of changes to relevant factual circumstances.

Step 4: Ensuring independent third-party audits

A. There needs to be some independent checks to ensure the credibility of the due diligence process, to acknowledge individuals and entities that are carrying out due diligence and to identify individuals and entities that are not carrying out due diligence and that are providing direct or indirect support to armed groups and/or sanctioned individuals and entities, with a view to possible sanctions.

B. The Group recommends that, at a minimum, refineries and smelters be independently audited to examine their due diligence process so as to mitigate the risk of providing direct or indirect support to armed groups from the eastern part of the Democratic Republic of the Congo and/or to sanctioned individuals and entities. The audits should specifically determine the conformity of the refinery's or smelter's due diligence to the standards and processes contained in this guidance.

C. Smelter/refinery auditing should be evaluated to assess whether it captures sufficient information to enable a reasonable inference of relevant individuals' and entities' compliance or non-compliance with due diligence at the smelter/refinery level and upstream from the mine site. If, upon review, it is established that smelter/refinery auditing captures insufficient information to justify imposing sanctions on individuals and entities that have not complied with due diligence, it may also be desirable for individuals and entities trading minerals from red flag locations from the level of comptoir to the smelter or refinery to be independently audited in this regard.

D. In accordance with international auditing standards (and individuals and entities should consult ISO 19011:2002 for detailed audit requirements), audit organizations and team members must be independent of auditees and must not have conflicts of interest with them. The auditors must be competent to assess the due diligence practices of the relevant individual or entity and would also benefit from knowledge of the evolving economic and political context in the eastern part of the Democratic Republic of the Congo. Performance indicators may be used to monitor the ability of the auditors to conduct the audit.

E. Auditors should examine samples of all documentation and other evidence produced by the smelter's or refinery's supply chain due diligence for minerals from red flag locations in order to determine whether the due diligence is sufficient to identify and prevent the risk of providing direct or indirect support to armed groups based in the eastern part of the Democratic Republic of the Congo and/or to sanctioned individuals and entities. Documentation may include but should not necessarily be limited to documentation on supply chain internal controls, relevant communications and contractual provisions with suppliers, documentation generated by company fact and risk assessments, documents on risk mitigation strategies and their implementation and relevant documents supplied by third parties.

F. Auditors should then gather further evidence and verify the information presented to them by conducting relevant interviews, making observations and reviewing documents. Auditors should conduct on-site investigations, including of the smelter or refinery and a sample of its suppliers, visiting the whole supply chain down to the mine site if necessary. Auditors should meet with and seek relevant information from a wide variety of sources, including joint assessment teams, local and central government authorities, the FARDC *auditorat militaire*, diggers' associations, the Group of Experts, MONUSCO and civil society organizations.

G. Auditors should report, based on the evidence they have gathered, on the conformity of the smelter's or refinery's due diligence with this guidance. Auditors should make recommendations for the smelter or refinery to improve its due diligence.

H. The establishment of an institutionalized mineral supply mechanism would, in the Group's view, enable more consistency in the findings of auditors regarding due diligence implementation and strengthen the credibility of these findings. The Group recommends, therefore, that the Council give consideration to endorsing or recommending the establishment of an institutionalized mineral supply mechanism that would oversee and support the audits of smelter/refinery due diligence with regard to direct and indirect support for illegal armed groups based in the eastern part of the Democratic Republic of the Congo and sanctioned individuals and entities. The mechanism would accredit auditors, oversee the execution of audits, share audit reports, receive and follow up on grievances of interested parties with the relevant individual or entity and share experiences on mitigation strategies.

I. However, even in the absence of such a body, due diligence implementation by relevant individuals and entities should still be subject to independent audits.

Step 5: Publicly disclosing supply chain due diligence and findings

A. Relevant individuals and entities should publicly and voluntarily report on the due diligence they have undertaken to mitigate the risks of the provision of direct or

indirect support to armed groups, criminal networks and/or perpetrators of serious human rights abuses, particularly within the State's armed forces, and/or to sanctioned individuals and entities. This information should form part of annual sustainability or corporate responsibility reports and should include:

(a) The individual or entity's supply chain policy;

(b) Information on how the individual or entity's system of control and transparency over the mineral supply chain is implemented and who is responsible for it;

(c) Relevant quantitative and qualitative information that the individual or entity's system of control and transparency over the mineral supply chain has generated, particularly relating to the risk of the provision of direct or indirect support to armed groups, criminal networks and/or perpetrators of serious human rights abuses, particularly within the State's armed forces, and/or to sanctioned individuals and entities, including the value and beneficiaries of all taxes, fees, royalties and other payments made or suspected to have been made, including to armed groups in the eastern part of the Democratic Republic of the Congo, criminal networks and/or perpetrators of serious human rights abuses, particularly within the State's armed forces, and/or sanctioned individuals and entities, at or near the mine site and at any other point in the supply chain;

(d) The individual or entity's assessment of the risk of providing direct or indirect support to armed groups in the eastern part of the Democratic Republic of the Congo and/or to sanctioned individuals and entities, and including the value and beneficiaries of all taxes, fees, royalties and other payments made or suspected to have been made, including to armed groups in the eastern part of the Democratic Republic of the Congo and/or sanctioned individuals and entities, at or near the mine site and at any other point in the supply chain;

(e) The individual or entity's risk mitigation strategy and information about its implementation to date.

B. Smelters and refineries that have had their due diligence audited should, in addition, publish the audit reports, with due regard for business confidentiality and competitive concerns, which means, without prejudice to subsequent interpretations, price and supplier relationships. In the event of the establishment of an institutionalized audit mechanism, relevant individuals and entities should disclose all due diligence information to this mechanism.

Annex II

Current list of individuals and entities designated for targeted sanctions pursuant to paragraphs 13 and 15 of Security Council resolution 1596 (2005)

Individuals

1. BWAMBALE, Frank Kakolele (alias: Kakorere)
2. IYAMUREMYE, Gaston (alias: Rumuli, BYIRINGIRO, Michel)
3. KAKAVU BUKWANDE, Jérôme
4. KATANGA, Germain
5. LUBANGA, Thomas
6. MANDRO, Khawa Panga (alias: Kawa, Yves Andoul Karim)
7. MBARUSHIMANA, Callixte
8. MPAMO, Iruta Douglas
9. MUDACUMURA, Sylvestre
10. MUGARAGU, Leodomir (alias: Manzi Leon)
11. MUJYAMBERE, Leon (alias: Musenyeri, Achille, Frere Petrus Ibrahim)
12. MURWANSHYAKA, Dr. Ignace
13. MUSONI, Straton
14. MUTEBUTSI, Jules
15. NGUDJOLO, Chui
16. NJABU, Floribert
17. NKUNDA, Laurent (alias: Mihigo, Batware)
18. NSANZUBUKIRE, Felicien (alias: Fred Irakeza)
19. NTAWUNGUKA, Pacifique (alias: Omega, Nzeri, Israel, Ntwangulu)
20. NYAKUNI, James
21. NZEYIMANA, Stanislas (Deogratius Bigaruka Izabayo, Jules Mateso Mlamba)
22. OZIA MAZIO, Dieudonné
23. TAGANDA, Bosco
24. ZIMURINDA, Innocent

Entities

1. Butembo Airlines
2. Congocom Trading House

3. Compagnie Aérienne des Grands Lacs (CAGL) — Great Lakes Business Company (GLBC)
4. Machanga Ltd.
5. Tous pour la paix et le développement (TPD)
6. Uganda Commercial Impex (UCI) Ltd.

The complete list, with identifying information and justifications for designation, as at 1 December 2010, is available from www.un.org/sc/committees/1533/pdf/1533_list.pdf (see also annex V).

Annex III

INTERPOL red notice for ADF leader Jamil Mukulu issued on 13 February 2011

Wanted
MUKULU, Jamil

Legal Status	
Present family name:	**MUKULU**
Forename:	**JAMIL**
Sex:	MALE
Date of birth:	1 January 1964 (47 years old)
Place of birth:	KAYUNGA, Uganda
Language spoken:	Arabic, English
Nationality:	Uganda

Offences	
Categories of offences:	TERRORISM
Arrest Warrant issued by:	CHIEF MAGISTRATE, BUGANDA ROAD COURT KAMPALA / Uganda

IF YOU HAVE ANY INFORMATION CONTACT
YOUR NATIONAL OR LOCAL POLICE
GENERAL SECRETARIAT OF INTERPOL

DIFFERENT FACES OF JAMIL MUKULU KYAGULANYI

Jamil Abilahaki

Nyanzi Yafeesi Phillip

Lwanga Thomas Mumo

Lumu Nicholas

Kityo Denis Muneke

Julius Elius Mashairi - TZ Citizen

Jjunju Abdallah

Kalamire Patanguis - British Citizen

JJUNJU ABDALLAH - Kenyan driver permit

Annex IV

Letter from the Congolese Minister of Defence, Charles Mwando Nsimba, authorizing the demobilization and reintegration of Congolese ex-combatants on 24 June 2010

Kinshasa, le

N° MDNAC/CAB/

Transmis copie pour information à :

Monsieur le Représentant Spécial du Secrétaire Général de l'Organisation des Nations Unies en République Démocratique du Congo ;
Monsieur le Chef de la Mission EUSEC en République Démocratique du Congo.
(Tous) à Kinshasa/Gombe

Objet : Traitement des éléments Résiduels des Groupes Armés du Nord-Kivu

: A Monsieur le Chef d'Etat-Major Général de la République démocratique du Congo à Kinshasa/Ngaliema

Monsieur le Chef d'Etat-Major Général,

En vue de maximiser la réussite du processus de sécurisation à l'Est de la République Démocratique du Congo, je vous autorise de procéder en urgence au traitement des éléments résiduels des ex-Groupes Armés regroupés dans la Province du Nord-Kivu afin d'encadrer leur refoulé de retrouver leurs positions initiales.

A cet effet, les mesures d'intégration ci-après doivent être de stricte application :

1. l'intégration in situ concernera les éléments résiduels qui se présenteront avec arme ;
2. les ex-combattants sans arme volontaires à l'intégration dans les FARDC seront regroupés en vue de les envoyer dans des centres d'agrément ;
3. ceux qui ne souhaitent pas intégrer l'armée seront versés aux programmes DE PN DDR et STAREC pour leur insertion dans les projets communautaires avec la population d'accueil.

Veuillez agréer, Monsieur le Chef d'Etat-Major Général, l'expression de mes sentiments patriotiques.

Charles MWANDO NSIMBA

Annex V

Factual updates on certain individuals and entities designated for targeted sanctions by the Security Council Committee established pursuant to resolution 1533 (2002)

Last name	*First name*	*Alias*	*Date of birth/ place of birth*	*Passport/identifying information*
BWAMBALE	Frank Kakolele			Congolese Nande. FARDC General, currently without function. Since 2010, Kakolele has been involved in activities apparently on behalf of the Democratic Republic of the Congo Government's Programme de Stabilisation et Reconstruction des Zones Sortant des Conflits Armés (STAREC). In March 2011, he joined a STAREC mission to Goma and Beni with the aim of carrying out sensitization for integration of armed groups and upcoming presidential elections.
IYAMUREMYE	Gaston			Rwandan Hutu. FDLR President and Second Vice-President of FDLR-FOCA Currently based at Kalonge, North Kivu Province.
KAKWAVU BUKANDE	Jerome		Goma	Congolese Tutsi. Currently detained in Makala Prison in Kinshasa. On 25 March 2011, the High Military Court in Kinshasa opened a trial against Kakwavu for war crimes.
MANDRO	Khawa Panga			Currently detained at Makala Central Prison.
MBARUSHIMANA	Callixte			Rwandan Hutu. Arrested in Paris on 3 October 2010 under International Criminal Court warrant for war crimes and crimes against humanity

Last name	*First name*	*Alias*	*Date of birth/ place of birth*	*Passport/identifying information*
				committed by FDLR troops in the Kivus in 2009 and transferred to International Criminal Court on 25 January 2011.
MPAMO	Iruta Douglas		Uvira	Ethnic Tutsi. Resides in Gisenyi, Rwanda. No known occupation since two of the planes managed by Great Lakes Business Company crashed and the other plane has been sanctioned by Security Council resolution.
MUDACUMURA	Sylvestre			Military commander of FDLR-FOCA, also political First Vice-President and head of FOCA High Command, thus combining overall military and political command functions since the arrests of FDLR leaders in Europe. Based at Kikoma forest, near Bogoyi, Walikale, North Kivu.
MUGARAGU	Leodomir			Rwandan Hutu. Chief of Staff FDLR-FOCA, in charge of administration. Based at the FDLR HQ at Kikoma forest, Bogoyi, Walikale, North Kivu.
MUJYAMBERE	Leopold	Achille		Rwandan Hutu. Commander of the South Kivu operational sector now called "Amazon" of FDLR-FOCA. Based at Nyakaleke (south-east of Mwenga, South Kivu).
MURWANASHYAKA	Ignace			Rwandan Hutu. Arrested by German authorities on 17 November 2009.

Last name	*First name*	*Alias*	*Date of birth/ place of birth*	*Passport/identifying information*
				Replaced by Gaston Iamuremye alias "Rumuli" as President of FDLR-FOCA. Murwanashyaka's trial for war crimes and crimes against humanity committed by FDLR troops in the Democratic Republic of the Congo in 2008 and 2009 began on 4 May 2011 in a German court.
MUSONI	Straton			Rwandan Hutu. Arrested by German authorities on 17 November 2009. Musoni's trial for war crimes and crimes against humanity committed by FDLR troops in the Democratic Republic of the Congo in 2008 and 2009 began on 4 May 2011 in a German court.
MUTEBUTSI	Jules		1964, Minembwe South Kivu	Ethnic Tutsi (Banyamulenge). Since 2007, he is in semi-liberty in Kigali (not authorized to leave the country).
NJABU	Floribert			Transferred to The Hague on 27 March 2011 to testify in the International Criminal Court trials of Germain Katanga et Mathieu Ngudjolo.
NKUNDA	Laurent			Ethnic Tutsi. Since his arrest in January 2009, Laurent Nkunda has been under house arrest in Kigali, Rwanda. He sporadically is authorized to receive visits from his family members and his former collaborators in CNDP. He occasionally has the right to use a telephone. Government of the Democratic Republic of the Congo request to

Last name	*First name*	*Alias*	*Date of birth/ place of birth*	*Passport/identifying information*
				extradite Laurent Nkunda for crimes committed in the eastern Democratic Republic of the Congo, which was refused by Rwanda. In 2010, Nkunda's appeal for illegal detention has been rejected by Rwandan court in Gisenyi ruling that the matter should be examined by a military court. Nkunda's lawyers initiated a procedure with the Rwandan Military Court.
NSANZUBUKIRE	Felicien			Rwandan Hutu. Lieutenant Colonel, commander of FDLR-FOCA 1st Brigade in South Kivu. Based in Magunda, Mwenga territory, South Kivu.
NTAWUNGUKA	Pacifique	Colonel Omega		Rwandan Hutu. Commander Operational Sector North Kivu "Sonoki" of FDLR-FOCA. Based at Matembe, North Kivu.
NZEYIMANA	Stanislas	Bigaruka		Rwandan Hutu. Deputy commander of the FDLR-FOCA military. Based at Mukoberwa, North Kivu.
TAGANDA or NTAGANDA	Bosco	"Lydia" when he was part of APR. "Terminator", "Tango". Call sign "Tango Romeo" or "Tango".	1973-74 Bigogwe, Rwanda	Ethnic Tutsi. Born in Rwanda, he moved to Nyamitaba, Masisi territory, North Kivu, when he was a child. He currently resides in Goma and owns large farms in Ngungu area, Masisi territory, North Kivu. Nominated FARDC Brigadier General by Presidential Decree on 11 December 2004, following Ituri peace agreements.

Last name	*First name*	*Alias*	*Date of birth/ place of birth*	*Passport/identifying information*
				Chief of Staff in CNDP; became CNDP military commander since the arrest of Laurent Nkunda in January 2009. As of January 2009, de facto deputy commander of consecutive anti-FDLR operations "Umoja Wetu", "Kimia II" and "Amani Leo" in North and South Kivu.
ZIMURINDA	Innocent	Zimulinda		Congolese Tutsi. Colonel in FARDC. Integrated in FARDC in 2009 as a lieutenant colonel, brigade commander in FARDC Kimia II operations, based in Ngungu area. In July 2009, Zimurinda was promoted full colonel and became FARDC Sector commander in Ngungu and subsequently in Kitchanga in FARDC Kimia II and Amani Leo operations. Whereas Zimurinda did not appear in Presidential ordinance of 31 December 2010 nominating high FARDC officers, Zimurinda de facto maintained his command position of FARDC 22nd sector in Kitchanga and wears the newly issued FARDC rank and uniform. Zimurinda is often referred to as Bosco Ntaganda's "right arm". On December 2010, Human Rights Watch denounced recruitment activities carried out by elements under the command of Zimurinda.
Congocom Trading House		Congomet Trading House	Butembo, North Kivu	During previous mandates, the Group has informed the Committee that Congocom Trading House had been mistakenly listed for association with the late Dr. Kisoni Kambale, who had designated by the Committee for targeted sanctions in 2007.

Last name	*First name*	*Alias*	*Date of birth/ place of birth*	*Passport/identifying information*
				This association arose from a confusion between Butembo-based "Congomet Trading House" and "Congocom Trading House". Bukavu-based Etablissement Namukaya, which is also known as Congocom, is a separate entity and has no affiliation with Congomet Trading House.
Machanga Ltd.			Kampala, Uganda	In 2010, assets belonging to Machanga, held in the account of Emirates Gold, were frozen by Bank of Nova Scotia Mocatta. The previous owner of Machanga, Rajendra Kumar, and his brother Vipul Kumar have remained involved in purchasing gold from the eastern Democratic Republic of the Congo.
Uganda Commercial Impex Ltd. (UCI)			Kampala, Uganda	In January 2011, Ugandan authorities notified the Committee that, following an exemption on its financial holdings, Emirates Gold repaid UCI's debt to Crane Bank in Kampala, leading to final closure of its accounts. The previous owner of UCI, J. V. Lodhia and his son Kumal Lodhia, have remained involved in purchasing gold from the eastern Democratic Republic of the Congo.

Last name	*First name*	*Alias*	*Date of birth/ place of birth*	*Passport/identifying information*
Tous pour la Paix et le Développement (TPD)			Goma, with provincial committees in South Kivu, Kasai Occidental, Kasai Oriental and Maniema.	Officially suspended all activities since 2008. In practice, TPD offices are open and intervene in specific cases related to returns of internally displaced persons, community reconciliation initiatives, land conflict settlements, etc. The TPD President is Eugene Serufuli and Vice-President is Saverina Karomba. Important members include North Kivu provincial deputies Robert Seninga and Bertin Kirivita.

Annex VI

Complete response to Mr. Tribert Rujugiro's rebuttal to the previous findings of the Group of Experts

During the course of its 2008 mandate, the Group of Experts investigated the activities of Mr. Tribert Rujugiro, an adviser to President Paul Kagame and chairman of Tri-Star Holdings, an investment group run by RPF which was involved in economic activities in RCD-Goma-occupied territories during 1998-2003.

In its final report of 2008 (S/2008/773), the Group referred to numerous e-mails clearly indicating conversations of a military nature between Mr. Rujugiro and CNDP officers. Mr. Rujugiro's lawyers subsequently questioned the authenticity of the e-mails, at the same time asking how the Group could have obtained them without violating local and international law. The Group has since had the opportunity to explain to Mr. Rujugiro's representatives that the e-mails were legally obtained from a private company, in response to a documented request by the Group to a State Member of the United Nations.

In a 150-page document sent to the Group of Experts (dated 14 September 2010), which was referenced in the Group's final report of 2010 (S/2010/596, annex 1, footnote c), Mr. Rujugiro's United States-based legal representatives denied that he had purchased or invested in lands in the "Masisi district" (sic) while they were under CNDP control; held meetings with CNDP leaders, including "General" Nkunda, at his ranches in Kilolirwe in 2006; paid money to CNDP for "protection" of cattle on his ranches; or appointed a CNDP commander to manage his ranches. However, the Group stands by its findings.

Aside from the e-mails described above, the Group is in possession of another e-mail exchange in which Mr. Rujugiro discussed money transfers with a CNDP supporter and activist. In addition, the Group gathered testimony from numerous CNDP officers that Mr. Rujugiro provided support to their movement. These allegations were confirmed by at least three independent sources.

While certain details — such as Mr. Rujugiro's meetings with Nkunda in Kilolirwe in 2006 — were provided by single sources, they contributed to a pattern of evidence corroborated by multiple sources and establishing a larger case: that Mr. Rujugiro had contacts with CNDP and supported it. The Group directly observed a CNDP base on one of Mr. Rujugiro's properties in a field trip to Kilolirwe in 2008. One source cited was a CNDP officer who had witnessed Mr. Rujugiro's presence at CNDP meetings in Masisi in 2006; Mr. Rujugiro acknowledged this.

The Group stated that Mr. Rujugiro had invested in lands in Masisi territory after CNDP had taken control of the area, not that he had purchased the land. This investment was indicated by the cows that he kept there and the improvements to the land in order to obtain confirmation of his title deed. Mr. Rujugiro's legal representative in these affairs was Colonel Innocent Gahizi, a high-ranking CNDP officer now serving in the Congolese army. The latter acknowledged this fact in the affidavit provided by Mr. Rujugiro's lawyers (as "Exhibit F").

Paragraph 13 of the affidavit reads as follows: "I have not had contact with Tribert since 2006, when I was asked to perform similar services related to administering some legal affairs relating to his farms. I was provided with a power

of attorney signed by Tribert which permitted me to assist Tribert in the confirmation of his ownership from long-term lease to complete ownership."

The allegation in paragraph 51 of the Group's report was that Mr. Rujugiro had a role in CNDP financing. Three witnesses said so; one of them had witnessed Mr. Rujugiro's presence at meetings with CNDP leaders in Kilolirwe in 2006. The Group also cited evidence that Mr. Rujugiro's ranch had been used by Nkunda and that his cattle had been protected by CNDP.

Finally, the Group wishes to express reservations with regard to the relevance and authenticity of some the "exhibits" provided by Mr. Rujugiro's legal representatives, purportedly to demonstrate the Group's methodological flaws and "basic factual errors".

One such document is a baptism certificate which is held to demonstrate that Mr. Rujugiro was not born in the Democratic Republic of the Congo, but in the Butare district of Southern Province, Rwanda. This certificate, which is neither dated nor signed, may indeed indicate that Mr. Rujugiro was baptized in Nyanza, Rwanda. However, the certificate gives no indication of any place of birth. In contrast, the documents annexed as "Exhibit L", pertaining to the lands owned and acquired by Mr. Rujugiro, all indicate that Mr. Rujugiro was born on 4 August 1941 in the locality of Jomba, which is in Rutshuru Territory, North Kivu Province, and that he has Congolese nationality. These documents are duly dated and signed.

In view of the above, the Group stands by the assertions in its final report of 2008 (S/2008/773) relating to the activities of Mr. Tribert Rujugiro at that time.

Annex VII

Letter from Mr. Muiti Muhindo in which he misquotes text purported to be from the paragraphs 269 and 270 of the final report of 2010 of the Group of Experts (S/2010/596)

Cabinet NGASHANI & Associés
Avocats
+ 243 814473212
+ 243 998433784
e-mail : desirengashani2007@yahoo.fr
25, Avenue Mont-Goma, Q. Les Volcans, Commune de GOMA
ONA : 0735.b.

DEC 2 1 2010
10-11748
EXECUTIVE OFFICE OF THE SECRETARY-GENERAL

Goma, 03/12/2010

N/Réf. : 058/CAB/MMN/10

Objet : Ma réaction face au rapport Panel des experts des N.U. sur la ferme de LUKOPHU de Masisi au Nord-Kivu (RD Congo).

A Monsieur le Secrétaire Général de l'Organisation des Nations Unies à NEW-YORK (USA).

Monsieur le Secrétaire Général,

En ma qualité de Conseil du sieur ALOYS TEGERA, chercheur congolais et activiste de la Société Civile au Nord-Kivu ; je prends ma liberté de vous approcher respectueusement en vue de réagir contre le rapport PANEL des experts des Nations-Unies concernant la ferme de LUKOPHU, situé dans le Territoire de MASISI au Nord-Kivu.

En effet, aux numéros 269 et 270 dudit rapport rendu public le 29 novembre 2010, il est affirmé, sans la moindre preuve et de manière irresponsable, « que sieur ALOYS TEGERA a acheté 400 hectares auprès de dame Catherine SERENGE et qu'il collabore avec les Forces Armées de la R.D. Congo (FARDC) pour tuer et violer les populations civiles ».

Ma réaction de ce jour consiste à porter, de la manière la plus claire, un démenti cinglant contre les propos diffamatoires, haineux et calomnieux qui circulent au sein de l'opinion publique.

Le terrain que sieur ALOYS TEGERA occupe actuellement est couvert par un titre de propriété devenu par ailleurs inattaquable, à l'occurrence un certificat d'enregistrement d'une concession perpétuelle VOL.AMW.01.FOLIO.107 établi le 12 décembre 2005 (SR 460, plan cadastral du Territoire de MASISI) en vertu d'un acte de vente signé en 2002 entre sieur SAFI ADILI et le nouvel acquéreur.

Il est important d'indiquer que le cocontractant SAFI ADILI a subrogé respectivement aux sieurs MAHINDURE PANCRAS, GUSTAVE NDOOLE et DESIRE, un colon belge qui y gardait ses bétails.

Sieur ALOYS TEGERA l'a occupé régulièrement depuis plusieurs années et sans le moindre trouble de jouissance. Ce n'est qu'en 2007, lors des affrontements armés entre les FARDC et le CNDP que la population de LUKOPHU, en majorité de l'ethnie HUTU, encouragée par des députés provinciaux originaux du coin, en mal de positionnement politique et soutenus par des éléments armés du groupe PARECO ; est venue investir de force la concession au travers des actes de destruction méchante des biens, de vol et de pillage des bétails et de déplacement des bornes. Au nom de la nouvelle guerre d'espace, ces populations instrumentalisées par les acteurs politiques, sont entrain d'occuper, sans loi ni foi, les terrains appartenant à d'autres concitoyens d'ethnies minoritaires, tels les Hunde, Tutsi, et Tembo.

Grâce à la justice qui est entrain de rétablir, non sans peine, l'Autorité de l'Etat, sieur ALOYS a été réinstallé dans sa concession. Cependant, l'on ne cesse de dénoncer auprès des autorités compétentes les différents cas de vol, des menaces de mort et d'incendie dont il fait souvent l'objet.

A cet effet, le Tribunal de Grande Instance de GOMA vient de rendre en date du 10 août 2010, malgré la modicité des moyens mis à sa disposition, un jugement sous le rôle pénal (RP) 20.429 disant établies, en droit comme en fait les infractions de destruction méchante, d'occupation illégale et condamnant les prévenus NDIKUBWIMANA et consorts à 6 mois de servitude pénale principale et au paiement des frais d'instance.

En dépit de cette décision judiciaire qui offre un début de solution au litige, la partie civile est en droit de réclamer des dommages-intérêts pour tous les préjudices subis.

De ce qui précède, qu'il plaise à votre compétence d'organiser une contre-expertise à LUKOPHU qui serait menée désormais par des rapporteurs neutres et impartiaux et ce, en vue de faire la lumière sur cette affaire qui jette injustement un discrédit sur ALOYS TEGERA et sa famille et de prévenir des conflits en grande échelle et à base des terres au Nord-Kivu.

Dans le cas où, mon argumentaire rencontrerait votre conviction, vous ordonnerez carrément la correction dudit rapport en élaguant purement et simplement toutes les allégations mensongères qui font grief au sieur ALOYS TEGERA.

A défaut, je me verrai dans l'obligation de saisir les instances judiciaires compétentes pour que sieur ALOYS TEGERA soit rétabli dans ses droits, son honneur, sa réputation et sa crédibilité.

Veuillez agréer, Monsieur le Secrétaire Général, l'expression de mes sentiments de haute considération et de profond respect.

Bien dévoué,

Me MUITI MUHINDO NG. Jean-Désiré
Avocat

C.C. : - Président de la République Démocratique du Congo
(Avec l'expression de mes sentiments respectueux)
- Ministre de la Justice et Droits Humains
- Représentant Spécial du Secrétaire Général de l'ONU
et Chef de mission de la MONUSCO en RDC
Tous à KINSHASA-GOMBE

- Président de l'Assemblée Provinciale du N-K
- Gouverneur de Province du Nord-Kivu
- Chef de Bureau MONUSCO
- 1er Président de la Cour d'Appel du N-K
- Procureur Général de la Cour Appel du NK
- Commandant de la 8e Rég. Mil. du N-K
- Inspecteur Provincial de la PNC-NK
- UN-HABITAT
- UN-HCR
- Président de la Société Civile du N-K.
- Mr ALOYS TEGERA C/° Pole Institute
Tous à GOMA.

- Administrateur du Territoire de et à MASISI

Annex VIII

Complete response to Mr. Aloys Tegera's rebuttal to the previous findings of the Group of Experts

In its final report of 2010 (S/2010/596, paras. 269-270), the Group referred to a land conflict in Lukopfu, North Kivu, where the involvement of both FARDC soldiers and a local militia led to a series of human rights abuses. On 3 December 2010, Mr. Muiti Muhindo, a lawyer representing the owner of the disputed farm, Mr. Aloys Tegera, addressed a letter to the Secretary-General, responding to the Group's final report. The Group is disappointed that Mr. Muhindo's letter falsified text placed within quotation marks and cited as if from paragraphs 269 and 270 of the Group's final report (annex VII). Contrary to Mr. Muhindo's letter, the Group did not allege that Mr. Tegera was responsible for the human rights violations which occurred as a result of the conflict linked to his farm. Rather, Mr. Tegera was simply named as the reported owner of the disputed land, a fact corroborated by multiple sources in 2010, including land registry officials (who stated, however, that they did not have a copy of the title on file), FARDC officers, MONUSCO, local authorities in Lukopfu, and independent non-governmental organizations.

At a meeting with the Group in April 2011, Mr. Tegera sought to clarify that he had purchased the farm in question in 2002 and that it consisted of only 127 hectares, contrary to the information included in paragraph 269 of the Group's final report. Mr. Tegera showed the Group a land title for the farm in Lukopfu.

Mr. Tegera also told the Group that, in August 2007, members of the local population, supported by PARECO deserters, invaded and pillaged his farm in Lukopfu. One of those individuals, Mr. Ndikubwana Ntariyukuri, was eventually condemned to six months of prison in August 2010 (see annex VII). In both Mr. Muhindo's letter and in a separate written communication with the Group, Mr. Tegera accused Hutu provincial deputies of mobilizing the local population against him. Mr. Tegera declined to identify these individuals and did not provide any evidence to support such allegations.

Mr. Aloys Tegera did confirm to the Group that he had written to three high-ranking FARDC commanders requesting their protection of his farm (annex IX). Mr. Tegera showed the Group a response from Second Zone Operations Commander, Colonel Chuma (see S/2010/596, paras. 190, 194, 196, 202-203 and box 4) agreeing to deploy FARDC soldiers to protect the Lukopfu farm. Mr. Tegera confirmed that the FARDC units subsequently installed a military camp on his land in October 2009 and proceeded to attack the local militia which had previously killed his cattle. However, he did not acknowledge any allegations of human rights abuses against the local population as a result of these military operations. Mr. Tegera also confirmed that his manager was Jean Ruzindana, as documented by the Group in paragraph 270 of its final report of 2010, who returned to his farm following the installation of the FARDC military position. According to local sources, Ruzindana worked closely with the FARDC soldiers, though was not personally responsible for any human rights violations.

Finally, Mr. Tegera and a local peace mediator informed the Group that, on 22 April 2011, five members of the local population of Lukopfu and Mr. Tegera reached an agreement to recognize the limits of the latter's property and to cease all violence and accusations. The Group welcomes this development, but is concerned by apparent resistance to the agreement by other members of the Lukopfu community.

Annex IX

One of three letters from Mr. Aloys Tegera to commanders of the Armed Forces of the Democratic Republic of the Congo which led to the deployment of soldiers to his farm in Lukopfu in 2010

Goma le 23 août 2010

Objet : Plainte au commandement militaire chargé de la sécurité de l'axe Masisi

A qui de droit,

Suite à ma lettre du 3 août 2010 faisant référence à votre lettre no 020/EM ZOps II/Comdt/09 donnant mission de sécuriser la contrée de Lukopfu/Kaniro, j'aimerais encore une fois réitérer que l'anarchie, le pillage à mains armées et l'insécurité imputés aux messieurs NDIKUBWIMANA et RYIMURA aidés par les civiles et déserteurs ex-PARECO tous armés, ont plongé la dite contrée dans une situation insoutenable.

En effet, les deux messieurs ont de nouveau mobilisé les villageois de plusieurs contrées de la zone de Masisi pour récolter illégalement, fusils à la main, 142 hectares de haricots que les paisibles citoyens avaient cultivé dans ma propriété d'une concession perpétuelle, enregistrée au cadastre du territoire de Masisi, et portant le numéro SR 460. Malgré leur dur labeur durant plusieurs mois, ces populations pillées et affamées se retrouvent dans un état de frustration et de colère qui pourrait déclencher toutes sortes de violence et replonger la zone dans une insécurité généralisée si les dispositions de sécurisation à la hauteur de ce défi ne sont pas prises.

Les sources non encore confirmées affirment que la situation décrite ci haut va au-delà d'un simple banditisme déguisé en conflit foncier et imputé au noyau organisateur mentionné ci-dessus. Le mobile de leur action remonterait aux élections législatives et présidentielles de 2006. Certains candidats députés Hutu en mal de positionnement auraient promis aux paysans de la zone de leur octroyer les pâturages des Tutsi si une fois ils étaient élus. L'occupation de cette contrée par les bandes armées PARECO dès août 2007 fut vécue par ces paysans comme une réalisation de la promesse faite durant la campagne électorale 2006. Depuis lors, s'attaquer sans aucun droit ni revendication légitime aux propriétés privées des fermiers Tutsi de la zone en pillant leurs vaches et en occupant illégalement leurs terres sont des actes de non droit mais considérés comme un acquis des élections de 2006. Au regard des élections de 2011 qui pointent à l'horizon, ces mêmes députés espéreraient se faire réélire en encourageant et en manipulant ces populations dans ces actes insenses et illégaux d'occupation des propriétés privées.

Il est important de noter qu'il n' y a pas que les fermiers Tutsi qui sont victimes de ces politiciens véreux qui sont en train de replonger la zone de Masisi dans une situation naguère comparable à 1993 quand les affrontements ethniques débutèrent. Il y a aussi certains citoyens Hunde bien identifiés qui ne peuvent plus accéder à leurs fermes ou champs occupés illégalement.

J'aimerais attirer votre attention au fait qu'il serait absurde de vouloir rapatrier les réfugiés Tutsi Congolais vivant dans les camps au Rwanda et en Ouganda dans un contexte politique où leurs fils et filles qui sont déjà établis au Nord-Kivu ne peuvent pas jouir de leurs droits les plus fondamentaux.

Nous vous demandons de bien vouloir accorder une attention particulière à cette situation combien explosive pour sauvegarder les acquis de paix qui commençaient à se consolider doucement mais sûrement.

Aloys TEGERA, Anthropologue et Historien, PhD

Annex X

Complete response to Mr. Victor Ngezayo's rebuttal to the previous findings of the Group of Experts

The Group met Mr. Victor Ngezayo in April 2011 to discuss his objections to citations in the final reports of 2008 (S/2008/773) and 2010 (S/2010/596). Mr. Ngezayo first denied past links to FPJC and CNDP and requested that more information be taken into account concerning the involvement of military actors in a land dispute at his request. In its final report of 2008 (S/2008/773), the Group described the Front populaire pour la justice au Congo (FPJC) as a grouping of Ituri militias led by "Colonel" Sharif Manda and described as closely linked to CNDP by high-ranking FPJC and CNDP officials (para. 123). In paragraph 124 it is stated that Victor Ngezayo and another individual were described by two senior FPJC officers as "political leaders" of FPJC, and by other sources, including Congolese and Ugandan intelligence services, as "active in support of FPJC". The same paragraph then adds the assertion that Mr. Ngezayo was "an active political supporter of CNDP".

In its final report of 2010 (S/2010/596), the Group acknowledged receipt of Victor Ngezayo's formal response to the above citation and confirmed having met with him. The Group should have made clear in its report, as it explained to Mr. Ngezayo at the time, that it did not wish to describe or respond to his rebuttals until given the opportunity to examine supporting documentation which had been volunteered by Mr. Ngezayo but which arrived too late for proper consideration. These documents supported Mr. Ngezayo's biography but did not offer evidence to contradict the assertions in question.

In meetings and in writing, Mr. Ngezayo has generally denied all knowledge of FPJC, although on 7 June 2010 he admitted "probably" meeting "one or two of them", without providing further details. From a review of the evidence in the Group's archives, the Group concludes that there was evidence, including from FPJC sources, to indicate that Mr. Ngezayo was indeed linked with FPJC, but not to present him as a political leader of FPJC, an overstatement which the Group hereby acknowledges and regrets.

As to the additional assertion that he was a "political supporter" of CNDP, which was based on testimony from CNDP sources as well as intelligence sources in the Democratic Republic of the Congo, Mr. Ngezayo has subsequently confirmed to the Group that, although not himself a member of CNDP, he had made many representations on their behalf, that they respected him and that he had advised them on occasion.

The Group's final report of 2010 (S/2010/596) cited Mr. Ngezayo's name in connection with two more recent cases.

Bulenga land dispute

Paragraph 276 of the final report of 2010 describes an incident in which troops reporting to Colonel Makenga, the South Kivu deputy commander for FARDC Amani Leo operations, became involved in a land dispute on behalf of Mr. Ngezayo, a fact he admitted to the Group on 27 August 2010, while saying he had exhausted the alternatives. However, Mr. Ngezayo reasonably objects to the fact that, although

he was described in the opening sentence as the landowner, later in the paragraph other claimants of the land are described as "evicted owners". It is not within the role or competence of the Group to comment on the legitimacy of legal claims. The Group takes this opportunity to add that its practice is to monitor land conflicts only where there are allegations of grave violations of human rights and/or the involvement of armed groups or criminal networks.

In his letter to the Group, Mr. Ngezayo suggests that the report failed to mention Makenga's position. In fact, the latter's post is described in paragraph 276. Likewise, Mr. Ngezayo expresses concern that the Group may have examined the situation through "ethnic lenses"; in fact there is no reference to ethnicity in paragraph 276. From examination of the Group's archives, it is worth noting that an official Government source described Makenga's involvement in this case as "unofficial" (i.e. private) and that his troops had refused orders from the Amani Leo hierarchy to leave the area.

Bunyole arms cache

Paragraph 156 of the final report of 2010 (S/2010/596) mentions the reported presence of an arms cache controlled by Bosco Ntaganda at Bunyole. Mr. Ngezayo has informed the Group that he is the owner of the farmland in Bunyole, but that he was not aware of this cache as he had no access to the land, as it was occupied by FARDC elements. The Group did not suggest otherwise in its final report of 2010, but takes this opportunity to note that, at meetings in June 2010 and in May 2011, Mr. Ngezayo did mention keeping cattle at the location and making short visits there.